

# INFLUENCING ELECTIONS: POLITICAL ACTIVITY OF LABOR UNIONS

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Y 4.H 81/3:EL 2/21

Influencing Elections: Political Ac...

## HEARING BEFORE THE COMMITTEE ON HOUSE OVERSIGHT HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

MARCH 21, 1996



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# INFLUENCING ELECTIONS: POLITICAL ACTIVITY OF LABOR UNIONS

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THURSDAY, MARCH 21, 1996

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOUSE OVERSIGHT,  
*Washington, DC.*

The committee met, pursuant to call, at 10:20 a.m., in Room 1310, Longworth House Office Building, Hon. William M. Thomas [chairman of the committee] presiding.

Present: Representatives Thomas, Ehlers, Dunn, Diaz-Balart, Ney, Fazio, Hoyer, Jefferson, and Pastor.

Staff Present: Stacy Carlson, Staff Director; Roman Buhler, Counsel; Dan Crowley, Counsel; James Sivesind, Associate Counsel; Laura Buhl, Staff Assistant; Janet Giuliani, Office Manager; Christopher Wright, Professional Staff; and Carla Tully, Staff Assistant.

The CHAIRMAN. The Committee on House Oversight will come to order.

I want to welcome everyone to the fourth hearing in what has every indication of being the most extensive examination of our campaign finance laws since the original passage of the Federal Election Campaign Act and amendments in the 1970s.

Just to refresh everyone's memory, the first hearing obviously was to lay the groundwork. We started with the Speaker and the Minority Leader and several panels of Members who were advocating change primarily focusing, on political action committees. Based upon the wide range of legislation, we moved into a number of other areas of desired change in the election laws as well.

The second hearing—which was held on November 2—finished up with many of the Members who had legislation in front of us. Since then, there have been a number of other Members who introduced legislation that have requested to be part of a hearing at some time in the future so that they could get their views out in these series of hearings. But the primary focus of the first two hearings was on corporations' political action committees.

There were, I believe, several unions there as well, focusing on the structure and the mechanics of the PACs themselves. We also heard from people who thought not only that there was a constitutional right to have a PAC, but that PACs did good things as well. These hearings were, I think, one of the first hearings in which PAC advocates were given an opportunity to present their views on a panel for any extensive period of time.

The third hearing, on December 12, focused on political parties. We had both national party chairs, Haley Barber, from the Repub-

lican Party, and Donald Fowler from the Democratic Party, in what I thought was an interesting panel, because, as you might guess, they wound up agreeing more than disagreeing because of the role of political parties and their concern about these unique institutions and their inability to do what they view as appropriate activities within the political arena.

In addition to the party chairs, we had some professors, an academic panel, if you will, discussing the recent history of political parties and the concern that these unique and valuable institutions should be changed under the law to allow them to be even more unique in their operation within the system.

In addition to that, we had some State party chairs to talk about not just the national parties, but the relationship between the States and the Federal parties under the Federal law.

So we come to the fourth hearing in the continuing series, and it was to focus on another unique institution. The more I actually have been looking at it, the more unique I realize it is, and that was the political activity of labor unions. We had hoped for not just the examination of labor union political activity, which would be a secondary concern, but the way in which unions fit in under the law similar to the examination with political parties and political action committees.

We had sent out invitations to the newly elected president of the AFL-CIO, Mr. Sweeney; president of the International Brotherhood of Teamsters, Mr. Carey; and the Secretary-Treasurer of the AFL-CIO, Mr. Trumka.

We had received letters, one 2 days ago and then one late last night, a letter on behalf of both Mr. Sweeney and Mr. Trumka, stating that they would not participate in the hearing.

So the hearing today will be more an academic examination, and those who perhaps would not be as supportive of labor union activities as the officials of the labor unions that we thought would come and express a positive justification, defense, and opportunity to profess the right and desire of unions to participate in the process, much the same as we have had with the leaders of the political parties and those individuals who are members of and supporters of the PAC movement.

But having the decline of the labor union participation, this committee obviously then will be having a hearing which is in part truncated, and we will try utilizing the Congressional Research Service to run as objective an analysis of the unions as we can, with the hope that in the near future the union representatives will participate in what will ultimately be the longest running, most complete examination of election law since these pieces of legislation went on the books in the 1970s.

With that, I would yield to the gentleman from California for any opening statement that he might like to make.

Mr. FAZIO. Thank you, Mr. Chairman.

I think everybody on this committee realizes that the need for meaningful campaign finance reform has become even more obvious with each passing election.

As part of the high price of modern elections, most of us have concerned ourselves with somehow limiting spending, but perhaps the greatest cost of our present campaign ritual is the way in



which it has contributed to the deep public distrust over the election process itself.

Surely I speak for all of us when I say that we absolutely must earn back the trust of our citizens if any of us, Democrats or Republicans or emerging independent forces, are to serve as representatives of the people and effectively govern in a democracy such as ours.

The Democratic majority in recent years worked at great length to craft a reform bill that would bring together the differing points of view in order to pass legislation that brought significant improvements to our political system. And in fact, after much effort, Democrats successfully passed a campaign finance reform bill in 1994. Unfortunately, we had little, if any, Republican support for our effort, and it died as a result of filibuster in the Senate.

With the new Congress, many of us had been hopeful that we could work together toward the kind of reforms that are needed and desired by so many in the public. And, indeed, in this committee we had embarked on a promising beginning.

As the chairman has said, our first three committee hearings on the issue of campaign finance reform represented a fair, well balanced effort to present topics of bipartisan concern. Such an approach, together with the many informal conversations taking place among members on both sides of the aisle, on this committee and off, offered us all reason to be optimistic.

I had originally understood that this hearing would be a continuation of that earlier approach; that, for purposes of campaign reform, we would explore the issues known as independent expenditures and voter education projects. These are issues that should be of concern to the American people and all of the political parties.

The indication had been that we would put together this hearing in a manner that fully examined the issues and treated both sides fairly. In fact, in the belief that we would be exploring a wide range of political groups and activities, I signed a letter with the chairman which was sent out to some 20 organizations asking for information and, I quote, "an upcoming hearing on independent expenditures and other voter education projects."

Let me read to you the recipients of that joint letter that requested information: The AMA, Planned Parenthood, the NRA, the Sierra Club, the National Right-to-Life Committee, the Christian Coalition, the AFL-CIO, the Teamsters, Common Cause, among numerous others.

Despite that promising beginning, the Majority has chosen to pursue a radically different objective in this hearing. No longer are we going to have a hearing that explores the political activities of a cross-section of interest groups; no longer can we expect to have the opportunity to ask questions of such groups as Citizens for a Sound Economy or Pat Robertson's vast political organization, and other such groups that spend hundreds of millions of dollars outside the Federal election system promoting their views in support of Republican candidates and their causes.

Rather, the Majority has now deliberately chosen to exercise its power to conduct a one-sided inquiry into the legitimate political activities of working men and women who make up the American labor movement.

Everyone interested in reform should be aware that more money was spent on voter education projects during the last election cycle than all the so-called soft money spent by the political parties combined, and, unlike the case with these voter education efforts, the non-Federal or so-called soft money spent by those political parties is reported and disclosed to the public for all to see.

This topic, the enormous amount of money being outside the Federal system of limits and disclosure, is in desperate need of thoughtful review and discussion. Unfortunately, the Majority now contrives to single out labor unions for selective attention while ignoring the numerous other groups invested in the voter education process.

Such a decision by the Majority, in my view, strips away all pretense of fairness or bipartisanship and reveals the true motive of this hearing. The Majority's transparent purpose in today's proceeding is to put the labor movement in their cross-hairs for having the apparent audacity to publicly oppose the Republican agenda in this Congress.

Organized working men and women have announced, in the words of John Sweeney, that their message in the coming months would be: "no cuts in medicare, medicaid, education, or worker protections to pay for a tax cut for the rich or the big corporations."

This is a message that has found no comfort in today's Republican Congress but which plainly represents the views of tens of millions of wage-earning families concerned about their futures.

The greatest sin of working people—or so it would appear from the fact that only labor was called to this hearing—was in declaring their intention to dedicate resources in organizing its membership and educating the public on these positions, positions clearly at odds with the goals of the Republican majority.

In this Republican Congress, when working people organize and try to educate the public about the need for a livable minimum wage or the importance of medicare or social security, the Republicans have hauled them before a congressional committee, first by Senator Simpson and now by this committee.

When, however, those who support a capital gains tax cut or the repeal of environmental laws and worker protections, spend hundreds of millions of dollars similarly informing the public, they seem to deserve not a seat at the committee's witness table but a seat at the Majority's legislative table, where they meet with Republican leadership on a weekly basis and promote their legislative agenda.

I have been advised by staff that representatives of labor have chosen not to attend today's inquisition. In all fairness, who can blame them? Surely they, too, recognize the real intent of this hearing.

I spoke earlier about the need for our regaining the public's trust. One way to do that is to openly and honestly debate the major issues of the day. It is evident that today's hearing is not intended to honestly explore bipartisan campaign finance reform, and for the Majority to single out the labor movement today reeks of a partisan vendetta.

This is an obvious effort to politically intimidate working people, pure and simple. It is an abuse of power by the Majority, a breach

of public trust, it is wrong, and the Democratic members of this committee have no intention of taking part in it any further.

Thank you, Mr. Chairman.

The CHAIRMAN. What a joke. You ought to leave somebody here to find out just how evenhanded this is going to be, in case you want to know. Oh, I guess not.

Well, I guess I will take the prerogative of the Chair and respond to the gentleman from California.

The same statement about a one-sided hearing could have been made about the first hearing when we had only Members of Congress. He could have accused us of not being evenhanded because we didn't bring in corporations or unions or representatives of political action committees; we had only Members of Congress.

He could have made the same accusation about the second hearing when we brought in the corporations and unions who were focused on the question of PACs; because we hadn't brought in the political parties, it couldn't be evenhanded.

He could have made the same criticism about the third hearing. Instead, he chose to make the criticism about the fourth hearing. He apparently has the opportunity to make the same criticism about the fifth hearing and the sixth hearing and the seventh hearing, although we are in the business of preparing those other hearings.

The gentleman from California, the ranking Minority member said, at the hearing on November 2, "I hope people will think big thoughts," he said, "and come up with some new concepts, because in the past, we have been victimized by Murphy's Law more often than not." In fact, all of the efforts to bring about the disclosure, the accountability, that the PAC system personifies were done in the name of reform.

He goes on to say this was a way of bringing middle management, white collar workers, into the political process equivalent to what the organized labor movement had brought about.

If the gentleman from California was doing a comparison between the PAC hearing and organized labor, I would think it would be appropriate to examine just what organized labor is doing to bring about this equivalency statement.

In addition to that, if anyone would renew recent headlines, not only is it timely to deal with labor unions, but they seem to nominate themselves for this examination.

Here is an article—and I would ask unanimous consent to place it in the record—that was in the Washington Post on January 21.

Headline: "AFL-CIO To Target 75 House Districts."

Headline: "Labor Group Hopes to Restore Democratic Control in the Chamber."

The first paragraph: "The AFL-CIO plans to target 75 key congressional districts in this year's elections in an effort to win back Democratic control of the House, Federation officials said yesterday."

It goes on to talk about, President John Sweeney presented an election plan to a closed-door meeting of the Federation's ruling executive council. It said, "unions would spend \$35 million in the election campaign." How and where, we are not sure.

[The article follows:]



## AFL-CIO To TARGET 75 HOUSE DISTRICTS

LABOR GROUP HOPES TO RESTORE DEMOCRATIC CONTROL IN CHAMBER

(By Frank Swoboda)

The AFL-CIO plans to target 75 key congressional districts in this year's elections in an effort to win back Democratic control of the House, federation officials said yesterday.

Privately, union leaders have written off any hopes of winning back Democratic control of the Senate, but they said they believe they have a legitimate chance to reverse the Republican majority in the House. At worst, union leaders said, they have a chance to reduce the size of the Republican majority.

AFL-CIO President John Sweeney, who presented the election plans to a closed-door meeting of the federation's ruling executive council, said unions would spend \$35 million in the election campaign. He said the spending was "substantially more" than the federation has spent in past elections, but he declined to provide specifics.

Another federation official said the spending level was seven times more than the organization normally spends in federal elections. The \$35 million does not include money spent in the elections by individual unions or the volunteer field work that labor plans in the targeted districts.

Sweeney was elected president of the 13 million-member labor federation last fall on a pledge of organizing new members for the labor movement. He targeted a minimum of \$20 million a year for organizing efforts by the federation to supplement the efforts of individual unions. The goal: 1 million new members.

But union leaders this week said there was no way labor could organize 1 million members in the short term and the election push was a way the new leadership could quickly demonstrate results for both the public and the AFL-CIO's 78 member unions.

Sweeney would not identify the 75 House races being targeted until he had a chance to discuss the effort with the union leadership.

The AFL-CIO also plans to ask its member unions to endorse President Clinton at a special March meeting of the federation's general board. Sweeney had originally planned to endorse Clinton this week, but a number of unions balked at giving the president such an early endorsement while the White House was still negotiating key budget issues.

Top AFL-CIO officials met with Clinton for nearly two hours Jan. 8 and urged him to hold fast against Republican budget demands, particularly in the areas of Medicare and Medicaid and the tax cuts being proposed by the GOP. Labor is particularly adamant in its opposition to a reduction in the capital gains tax rate.

Sweeney said yesterday that labor's message in this year's federal elections would be: "No cuts in Medicare, Medicaid, education or worker protections to pay for a tax cut for the rich and big corporations."

Labor plans to coordinate its grass roots election efforts with a push to organize new members in a "Union Summer" campaign. It plans to send 1,000 young organizers into the field to work on union membership campaigns.

These organizers also are expected to help supplement the efforts of political operatives labor sends into the field for the elections.

## AFL-CIO CREDIT CARD DEAL WOULD MEAN COVETED CASH

(By Stuart Silverstein)

In a deal that would bring the labor movement at least \$375 million in the next five years for organizing drives and other campaigns, the AFL-CIO has reached a preliminary agreement with a financial services firm on a new credit card program for union members.

AFL-CIO spokesman Ray Abernathy said Thursday that the tentative pact is a model for innovative ways that unions can use their buying power and investments to further their aims.

The \$375 million in royalties from the program would be split among the AFL-CIO and its 79 member unions. With the AFL-CIO's current annual budget at roughly \$70 million, the funds would represent a major infusion that could finance such initiatives as the federation's recently announced grass-roots political program.

The AFL-CIO's executive council, concluding its four-day meeting here, authorized the labor federation to negotiate a final agreement with Salinas, Calif.-based Household Credit, a unit of the giant finance company Household International. The AFL-CIO's current credit card arrangement with Bank of New York, which expires

in a year, has produced insignificant revenue for the labor federation, officials said. It has provided credit cards to 2 million of the 13 million union workers affiliated with the AFL-CIO.

Under the new card program, striking workers could go up to six months without having to pay their principal or interest on their accounts. Household Credit also agreed not to oppose union organizing of its workers.

Separately, the AFL-CIO executive council approved a reorganization that will close four to six of its 12 regional offices. Officials said the fate of the Los Angeles office has not been determined.

The CHAIRMAN. On February 23, the L.A. Times ran a headline: "AFL-CIO Credit Card Deal Would Mean Coveted Cash." The date-line is Bal Harbour, Florida, apparently a midwinter labor union officials' meeting in Florida.

In a deal that would bring the labor movement at least \$375 million in the next 5 years for organizing drives and other campaigns, the AFL-CIO has reached preliminary agreement with the financial services firm on a new credit card program for union members.

There are a number of other headlines indicating that labor unions mean to participate in the political process in a manner and level that they have never done before.

But I guess the primary reason we tried to invite the labor union officials to this particular hearing is that they have announced and are planning on holding a convention in Washington this week and that they are here and about planning their convention.

For convenience and appropriateness, we thought we would make sure that this hearing was scheduled with an opportunity to hear from the newly-elected officials in a newly-revitalized labor union movement to involve themselves in the political process like they have never involved themselves before.

I perhaps anticipated the gentleman from California's walkout when, in the response letter to our letter that had been sent March 8 to Mr. Sweeney and Mr. Trumka, which we received late yesterday afternoon, March 20, the closing sentence was, "We believe that a balanced review of campaign finance laws is a worthwhile endeavor and would be glad to work with your committee on such an effort in the future."

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOUSE OVERSIGHT,  
Washington, DC, March 8, 1996.

Mr. JOHN SWEENEY,  
President, AFL-CIO,  
Washington, DC.

DEAR MR. SWEENEY: The Committee on House Oversight will continue its series of hearings on issues related to the financing of federal campaigns on Thursday, March 21, 1996. This hearing will focus on the role of "non-federal" funds, i.e. those that fall outside the Federal Election Commission disclosure requirements, in influencing the outcome of elections. In past hearings, the Committee has heard wide-ranging testimony on the role of PACs and political parties in the elections process. This hearing is the logical next step in our efforts to examine the relationship between contributions, expenditures and election results.

There has been extensive press coverage (copies of pertinent articles attached) of the AFL-CIO's plan for a national effort to spend money and resources on political activities during 1996. The AFL-CIO's election effort is within both the scope and interest of the Committee as we gather information necessary to draft comprehensive campaign finance reform legislation this year.

Accordingly, the Committee invites you to join us on March 21, 1996 at 10:00 a.m. in room 1310 of the Longworth House Office Building. While we anticipate the hearing will last up to four hours, we ask that you appear for approximately one hour.

We believe the hearing will provide valuable information to the public about this aspect of campaign finance.

Please contact Samantha Kemp to finalize the arrangements and coordinate submission of testimony. If you have further questions on the substance of the hearing, please contact Stacy Carlson or Roman Buhler at the same phone number. We look forward to your appearance before the Committee.

Sincerely,

BILL THOMAS, *Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOUSE OVERSIGHT,  
*Washington, DC, March 8, 1996.*

Mr. RICHARD TRUMKA,  
*Secretary/Treasurer, AFL-CIO,*  
*Washington, DC.*

DEAR MR. TRUMKA: The Committee on House Oversight will continue its series of hearings on issues related to the financing of federal campaigns on March 21, 1996. This hearing will focus on the role of "non-federal" funds, i.e., those that fall outside the Federal Election Commission disclosure requirements, in influencing the outcome of elections. In past hearings, the Committee has heard wide-ranging testimony on the role of PACs and political parties in the elections process. This hearing is the logical next step in our efforts to examine the relationship between contributions, expenditures and election results.

Accordingly, the Committee invites you to join us on March 21, 1996 at 10:00 a.m. in room 1310 of the Longworth House Office Building to discuss sources of funding for AFL-CIO political activities. While we anticipate the hearing will last up to four hours, we ask that you appear for approximately one hour. We believe the hearing will provide valuable information to the public about this aspect of campaign finance.

Please contact Samantha Kemp at (202) 225-8281 to finalize the arrangements and coordinate submission of testimony. If you have further questions on the substance of the hearing, please contact Stacy Carlson or Roman Buhler at the same phone number. We look forward to your appearance before the Committee.

Sincerely,

BILL THOMAS, *Chairman.*

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AMERICAN FEDERATION OF LABOR AND CONGRESS  
OF INDUSTRIAL ORGANIZATIONS,  
*Washington, DC, March 20, 1996.*

Hon. WILLIAM THOMAS,  
*Chairman,*  
*Committee on House Oversight,*  
*Washington, DC.*

DEAR CHAIRMAN THOMAS: I am writing you in response to your letter to AFL-CIO President John Sweeney and Secretary/Treasurer, Richard Trumka with regard to the House Oversight Committee hearing on March 21, 1996, on campaign finance activities. I regret to inform you that we will not be providing a witness for this hearing. We believe that a balanced review of campaign finance laws is a worthwhile endeavor and would be glad to work with your committee on such an effort in the future.

Sincerely,

PEGGY TAYLOR,  
*Director, Department of Legislation.*

The assumption, I guess, is that a process which doesn't allow us either a wide enough table or a long enough day to bring everybody at one time can't possibly be balanced if you do it over time in a sequential way.

As chairman of the committee, I am a bit disheartened by the grandstanding of the members of the Minority and the rather harsh language captured, I think, best by "a partisan vendetta" of an examination of labor unions, who have self-nominated them-



selves in terms of activities in the political process, and that I think rightfully should be the subject of a hearing. Those other groups that were mentioned will rightfully be the subject of a hearing as we move forward in the most extensive examination of campaign finance laws that the U.S. Congress has ever undertaken.

This is the first time with the new Majority that labor unions have been included as part of the hearing. Apparently that is a sufficient reason, simply including them, to provide motivation for our Democratic members to stage a rather dramatic but fairly obvious walkout.

Do any other members wish to make statements?

The gentleman from Michigan.

Mr. EHLERS. Thank you, Mr. Chairman.

First of all, I want to commend you for the evenhanded way in which you have conducted the hearings up to this point, and I am sure you will continue that evenhandedness in the future. We are in the information-gathering phase, and I didn't realize that we were not allowed to gather information from certain groups who are involved in the political process.

I also want to comment on the display we have just seen. I have been in public life for approximately 20 years, either full-time or part-time, and although I have experienced individual walkouts, I have never experienced a walkout of a block of members before, and I think this childish walkout demonstrates to me something that I have always discounted.

People have told me for years about the power of the unions with certain legislators or Congressmen, and I am just astounded that a simple matter of asking questions about this would, first of all, precipitate a response from the major unions that they wouldn't even appear before us. To my knowledge, that is very unusual, for someone to decline an invitation to testify.

But secondly, that the power of the unions is such that it would precipitate a walkout by the entire Democrat membership of this committee makes me think, Mr. Chairman, that we are beginning to uncover something of major importance here, and that deserves better scrutiny that we had planned to give it.

I just want to express a deep personal disappointment. As you know, I am not an overly partisan person, and I was looking forward to a bipartisan discussion of this issue, and it is a real disappointment to me that the members of the Minority have walked out and will not even participate in our discussion of this aspect of the campaign funding issue.

Thank you.

The CHAIRMAN. Do any other members wish to make an opening statement?

The gentleman from Ohio.

Mr. NEY. Thank you, Mr. Chairman.

I just wanted to state for the record, as someone who is a recipient of labor union monies and will continue to be the recipient of support by labor unions from my district, I bring my comments in an unbiased manner.

My purpose to hear labor unions today wasn't, again—just to reiterate what Mr. Ehlers said—wasn't any particular type of witch-hunt, an it wasn't approached that way by the Chair or intended

that way, and I think the Chair eloquently summed up today who gets called first, and we didn't complain what, it was Members of Congress only that were called.

Today, you know, I think we have to take it for what it is worth, entertaining theatrics in a rather boring morning maybe, and on top of it is this "take my toys and go home" attitude. There is nothing wrong in an energetic give-and-take of public debate whatsoever to ask people simple questions.

Also, from my end of it, the rank and file that I represent, be they Democrat, Republican, or independent, also, I think, have questions that they want to be asked of their unions, and I think that people that work for business have questions they want asked of their business, and people belonging to the NRA have questions that want asked of their organization.

That is simply what this is. It is election-year-itis, trying to make this a Republican-versus-labor, "trying to get 'em" type of attitude. That is not what this is, and I just think today is a total shirking of their responsibility to be on the committee.

I have been on many committees, on the legislatures as Mr. Ehlers, I know, served in Michigan, and plenty of times there were a lot of things that went on that I didn't like at all. But you don't take your toys and go home, you sit there and do what you were sent here to do, which is to participate in the process, especially when the intent of the Chair was right and above board from the start.

So a good amount of theatrics, and I think that is what we ought to take it for.

The CHAIRMAN. I thank the gentleman.

I want to thank the panel, and perhaps it is doubly ironic that as we begin the panel, Mr. Durbin will make the usual disclaimer—and I invite him to do so—of the Congressional Research Service in terms of their motivation and purposes of participating in hearings.

I want to thank all of you for coming, and I guess the easiest way to do it is right to left, or from your left to right.

Mr. Durbin, thank you very much. I know you have a written document, and all of the witness's written documents will be made a part of the record. If you will give us a summation or some way of communicating to us what you want us to know in the time you have, we would be appreciative.

Mr. Durbin.

**STATEMENTS OF THOMAS DURBIN, LEGISLATIVE ATTORNEY, AMERICAN LAW DIVISION, CONGRESSIONAL RESEARCH SERVICE, LIBRARY OF CONGRESS; PAIGE WHITAKER, LEGISLATIVE ATTORNEY, AMERICAN LAW DIVISION, CONGRESSIONAL RESEARCH SERVICE, LIBRARY OF CONGRESS; LEO TROY, PROFESSOR, RUTGERS UNIVERSITY; AND REED LARSON, PRESIDENT, NATIONAL RIGHT TO WORK COMMITTEE**

#### **STATEMENT OF THOMAS DURBIN**

Mr. DURBIN. Thank you, Mr. Chairman.



Mr. Chairman, Mr. Vice Chairman, Members of Congress, congressional staff, my name is Thomas Durbin, and I am a legislative attorney with the American Law Division of the Congressional Research Service, Library of Congress. In accordance with the long-standing policy of the Congressional Research Service, testimony I will be providing will be objective and nonpartisan.

I wish to give a bit of basic introductory information that will be helpful for this hearing. First, Congress in 1907 prohibited corporate funds in Federal elections because of their undue influence in the Federal election processes. In 1943 by the War Labor Disputes Act and in 1947 by the Taft-Hartley Act, Congress likewise banned labor union funds in Federal elections. The Federal Election Campaign Act of 1971, as amended, incorporated these prohibitions on corporate and labor union funds.

Specifically, Section 441b of the Federal Election Campaign Act, as amended, prohibits contributions or expenditures by labor unions, corporations, and national banks in connection with any election for Federal office. However, the prohibitions would not include communications by a labor organization to its members and their families, labor union organized nonpartisan voter registration, get-out-the-vote drives aimed at its members and their families, and the establishment, administration, and solicitation of contributions to a labor union political action committee to be utilized for political purposes.

Generally, political action committees have been involved in the Federal election processes for approximately six decades since the 1940s when Federal laws were passed prohibiting labor union contributions and expenditures in Federal elections. The labor union movement created PACs, which were outgrowths of labor union activities, after the Federal Government banned them from using political funds in Federal elections.

In the years that immediately followed the 1947 prohibition, the labor unions struggled with the ban on labor union funds in Federal elections. Unions and union leaders often were prosecuted in the forties and fifties, sixties, and seventies for their uses of political action committees to avoid the Federal law prohibiting union funds in Federal elections.

Briefly, let me just cite the cases. There was a 1948 case, *United States v. CIO*, a 1957 case, the *United States versus UAW*, and the famous case in 1972, *Pipefitters Local Union 562, et al, v. United States*. There are just a sampling of the cases that the Supreme Court heard. For brevity, I will not explain them at this point.

The Federal Election Campaign Act of 1971 expressly legitimated the creation of labor PACs as well as corporate PACs and expressly authorized labor organizations to establish and administer and solicit contributions voluntarily for such political funds. The 1971 act legalizing labor PACs effectively repealed any Federal prohibition against the use of labor PACs in Federal elections.

Let me briefly touch upon the issue of compulsory union dues for political activities. The first thing you have to do is understand union security agreements, which are essentially agreements between employers, companies, and the labor unions requiring employees, labor members, or nonlabor members to provide some form of financial support to unions as a condition of employment. The

union shop or the agency shop agreement essentially provides that employees do not have to join the union, but must support the union in order to retain employment by paying dues to defray the cost of collective bargaining, representational activities, contract administration, and grievance matters.

In a line of decisions, the Supreme Court has addressed this issue and has concluded that compulsory union dues of nonmembers of the labor union should not be used for political and ideological activities which are outside the scope of the union's collective bargaining and labor management duties if nonmembers of the union object to such use.

Seven Supreme Court decisions have held that such union dues exacted from dissenting nonmembers were not to be used for political and ideological purposes and would have to be refunded in an expedited way to dissenting nonmembers in accordance with proper procedural safeguards.

The cases ran from 1961 to 1991, and of course in 1988 we had the case of *Communication Workers of America v. Beck*. Legislation in recent Congresses has been introduced which would provide for certain education procedures.

The CHAIRMAN. Mr. Durbin, let me indicate to you, we normally run a light on a 5-minute basis, but since it looks like our questioning may be cut in half or more, we can spend some more time, and I am always frustrated by the shortness that the witnesses have to present it. So we will just turn the light off. You can go ahead, and in a convenient and reasonable way, go ahead, but don't assume you are under any time frame, because apparently we have the liberty to spend some more time discussing it that I didn't think we would have.

Mr. DURBIN. I need 1 more minute.

The CHAIRMAN. You may certainly have it.

Mr. DURBIN. Legislation has been introduced in recent Congresses addressing this issue which would provide for certain notification requirements by labor organizations to all employees within their bargaining unit or units at least annually, or to new employees within 30 days of the information relating to use of dues for political and lobbying expenses.

Other legislation would regulate and even prohibit the use of compulsory union dues for certain political purposes.

Thank you.

[The prepared statement of Mr. Durbin follows:]

Testimony of Thomas M. Durbin  
Regarding the Law of Labor Union Political Activity  
before the House Committee on House Oversight  
March 21, 1996

Mr. Chairman and Members of the Committee, my name is Thomas Durbin and I am a legislative attorney with the American Law Division of the Congressional Research Service, Library of Congress. In accordance with the long-standing policy of the Congressional Research Service, the testimony that I will be providing will be objective and nonpartisan.

## **I. Introduction And Background**

Section 441b of the Federal Election Campaign Act (FECA), as amended, prohibits contributions or expenditures by labor unions in connection with any election for federal office.<sup>1</sup> Contributions and expenditures also include: direct or indirect payments, distributions, loans, advances, deposits, gifts of money, any services, or anything of value, but they would not include: communications by a labor organization to its members and their families, labor union organized nonpartisan voter registration and get-out-the vote drives aimed at its members and their families, and the establishment, administration, and solicitation of contributions to a labor political action committee (PAC)<sup>2</sup> to be utilized for political purposes.<sup>3</sup>

Generally, political action committees have been involved in the federal election processes for approximately six decades since the 1940's when federal laws were passed prohibiting labor union contributions and expenditures in

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<sup>1</sup> Under the FECA the term "election" means a primary, runoff, special or general election, and it can even mean a convention or caucus of a political party having the authority to nominate candidates. 2 U.S.C. § 431(1).

<sup>2</sup> The term "political action committee (PAC)" does not appear in the FECA; rather PACs are generally referred to as separate segregated funds (SSFs). PACs can also be nonparty multicandidate political committees when they meet certain criteria: (1) registered with the Federal Election Commission (FEC) for at least six months, (2) received contributions for federal elections from more than fifty persons, (3) made contributions to five or more federal office candidates. 2 U.S.C. § 441a(a)(4); 11 C.F.R. § 100.5(e)(3).

<sup>3</sup> 2 U.S.C. § 441b(b)(2).

federal elections.<sup>4</sup> The labor union movement created PACs which began as outgrowths of labor union activities after the federal government banned labor union political funds in federal elections due to the possibility of corruption and undue influence by them. Some of the first labor union PACs were the Non-Partisan League PAC, affiliated with the Congress of Industrial Organization (CIO) Labor Union and the influential Committee on Political Education (COPE), affiliated with the AFL-CIO labor union. Labor PACs experienced moderate growth in the PAC movement so that by 1968 there were approximately 37 labor PACs. The corporate and business communities were slower in joining the PAC phenomenon; however, in 1961 the American Medical Association established a PAC known as AMPAC and the National Association of Manufacturers created the Business-Industry Political Action Committee called BIPAC. Some of the activities that the labor and business PACs engaged in included: (1) making campaign contributions to federal and state candidates, (2) conducting various types of voter-education activities, (3) providing for voter registration drives, and (4) arranging for get-out-the-vote drives. The Federal Election Commission Press Release of January 23, 1996 lists a total of 4,016 connected and non-connected PACs. Of that number, there are today 1,674 corporate PACs and 334 labor PACs.

## II. Court Challenges to the Ban on Labor Union Funds in Federal Elections

In the years that immediately followed the Taft-Hartley of 1947, labor unions challenged the ban on labor union funds in federal elections. One such case was *United States v. CIO*,<sup>5</sup> brought by the CIO to test the constitutionality of the prohibition on labor union funds in federal elections. It involved the distribution by the CIO of its newsletter favoring a candidate for Congress which it supported and recommending to its members their support. The Labor organization and its President were indicted for making expenditures for the publication. The United States District Court for the District of Columbia dismissed on the ground that the Act prohibiting such union expenditures violated the First Amendment of the U.S. Constitution. The dismissal was appealed directly to the United States Supreme Court which affirmed the dismissal but refused to decide the First Amendment constitutional issues.<sup>6</sup>

In 1957 the Supreme Court, in *United States v. UAW*,<sup>7</sup> once again had the opportunity to decide the constitutional issues in a case in which the District Court for the Eastern District of Michigan dismissed an indictment of a labor organization for having used union dues to sponsor television broadcasts to

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<sup>4</sup> The War Labor Disputes Act of 1943, c. 144, 57 Stat. 163 (1943), as amended by the Taft-Hartley Act of 1947, c. 120, 61 Stat. 136 (1947).

<sup>5</sup> 335 U.S. 106, 124 (1948).

<sup>6</sup> *Id.*, 123-24.

<sup>7</sup> 352 U.S. 567, 592-93 (1957).



influence voters to elect certain federal candidates.<sup>8</sup> The Supreme Court, while failing to address the First Amendment constitutional issues, reinstated the indictment stating that the legislative history of the then proscription of such use of union funds in federal elections (18 U.S.C. § 610) was understood to ban the expenditure of union dues to pay for commercial television broadcasts urging the public to vote for certain candidates or for certain political parties.<sup>9</sup>

In the 1972 Supreme Court decision, *Pipefitters Local Union No. 562 et al. v. United States*,<sup>10</sup> reversing the convictions of a Labor Union and three of its officers of violating former 18 U.S.C. § 610 banning labor contributions and expenditures in connection with a federal election, the Court held that a legitimate labor union political fund must be separate from the labor union in that there must be a strict segregation of the political fund's monies from the union's dues and assessments.<sup>11</sup> However, the Federal Election Campaign Act of 1971, enacted after the oral argument in this case, expressly legitimated the creation of labor PACs or SSFs and expressly authorized labor organizations to establish and administer, and solicit contributions voluntarily for such political funds.<sup>12</sup> The 1971 Act legalizing labor PAC's financial participation in the federal election process effectively repealed 18 U.S.C. § 610 prohibiting the use of union monies for the establishment, administration, or solicitation of contributions for union political funds.<sup>13</sup>

The provision of the Federal Election Campaign Act of 1971 (FECA), commonly referred to as the "Hansen amendment," which legislatively allowed for the first time the use of political action committees or the separate segregated funds by labor unions and other connected and nonconnected groups meant that such labor unions and their leaders would not necessarily be prosecuted for criminal violations when their PAC would solicit contributions and make expenditures in connection with federal elections.<sup>14</sup>

### III. The Use of Compulsory Union Dues For Political Purposes

Labor unions are generally prohibited from making any direct or indirect contributions or expenditures in connection with federal elections under the

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<sup>8</sup> *Id.*, 568-85.

<sup>9</sup> *Id.*, 585-87.

<sup>10</sup> 407 U.S. 385 (1972).

<sup>11</sup> *Id.*, 414 (1972).

<sup>12</sup> Pub. L. 92-225, § 205, 86 Stat. 10 (1972); 2 U.S.C. § 441b(b)(2)(C).

<sup>13</sup> 407 U.S. at 427-32.

<sup>14</sup> *Id.*, 428-32.

FECA.<sup>15</sup> However, certain labor union political activities are allowed under the FECA despite this broad prohibition. As a result, labor union dues are often used in connection with activities such as: (1) the financing and administration of labor union PACs (SSFs); (2) the payment of the salaries of labor union employees who engage in voter registration activities and get-out-the-vote drives; and (3) the payment and financing of supplies, mass mailings, office equipment, machinery, computers, and related supplies and equipment for the union PACs.<sup>16</sup>

Many labor union members who are subject to certain union security agreements, such as the agency shop or the union shop, have objected to having their union dues used for political purposes which are not related to union collective bargaining and representational activities. Under the FECA, Congress has enacted certain safeguards in order to protect union members and other members bound by any labor-management agreement from certain coercive activities for political purposes. These measures relating to union PACs make it unlawful:

"(A) for such a fund [PAC] to make a contribution or expenditure by utilizing money or anything of value secured by physical force, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal."<sup>17</sup>

At issue is whether compulsory labor union dues may be used by a union for political purposes, and, if so, under what restrictions or conditions may such dues be used. But in order to understand that issue properly, it is necessary to understand the various types of union security agreements between employers and labor unions which require employees to provide some form of financial support to the unions as a condition of employment. One type of security agreement is the so-called "closed shop" whereby the employer agrees to employ only members in good standing with the union. This type of agreement was recognized by the National Labor Relations Act of 1935 (NLRA), popularly

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<sup>15</sup> 2 U.S.C. § 441b(a)(b); 11 C.F.R. § 114.2 (1994).

<sup>16</sup> When union funds are used for political purposes, a distinction is made between union "hard money" and "soft money." The term "hard money" is used to describe union funds derived primarily from union dues which would be used to make contributions directly to candidates and political committees. These contributions, outside of the labor PAC, would generally be prohibited under the FECA. The term "soft money" is used to describe union funds derived primarily from union dues to finance the establishment and the administration of PACs, voter registration drives, get-out-the-vote activities, as well as certain state and local "party-building" activities.

<sup>17</sup> 2 U.S.C. § 441b(3)(A),(B),(C).

known as the Wagner Act,<sup>18</sup> but was later prohibited by the Labor Management Relations Act of 1947.<sup>19</sup>

Another type of union security agreement is the agency shop agreement whereby the employees do not have to join the union or have full union membership in good standing within thirty days, but must support the union by paying a sum of money equivalent to union dues in order to retain employment.<sup>20</sup> Most agency shop agreements provide for a service fee which includes an initiation fee as well as certain dues which are paid by full union members. Another form of union security agreement is the union shop, which does not condition employment on union membership, but requires that employees join the union after a certain grace period on the job and remain members during the term of the labor-management agreement.<sup>21</sup> A "maintenance of membership" clause in a union contract is another form of union security which imposes no obligation to join the union, but requires that one remain a member once voluntarily becoming one until the expiration of the collective bargaining agreement.<sup>22</sup>

Other less formal union security agreements are: (1) a dues-checkoff provision, (2) a fair-share agreement, or (3) a hiring-hall provision. The dues-checkoff provision does not require anyone to join a union or retain union membership, but simply requires that the employer shall deduct from the salary of the union members their union dues and credit that amount to the union. A fair-share agreement would require all employees to pay the prorated share of the union's collective bargaining and representational expenses, but not irrelevant expenses. The hiring-hall provision is a device for job security in certain industries such as in the maritime and construction industries whereby the union and the employer agree that the union-hall is to be the exclusive mode for job referrals.<sup>23</sup>

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<sup>18</sup> See ch. 372, § 8(3), 49 Stat. 452 (1935). See *Radio Officers Union v. NLRB*, 347 U.S. 17, 41 (1954) holding that the legislative history of the NLRA indicated that Congress intended the utilization of union security agreements to compel the payment of union dues and fees.

<sup>19</sup> The Labor Management Relations Act of 1947 is popularly titled the Taft-Hartley Amendments of 1947. See ch. 120, § 101, 61 Stat. 140-141 (1947), amending § 8(3) of the NLRA and renumbering it § 8(a)(3). This section is codified at 29 U.S.C. § 158(a)(3).

<sup>20</sup> See generally, Joseph Jenkins, *LABOR LAW*, v. 2, § 4.9 (Cincinnati: W.H. Anderson Co., 1969).

<sup>21</sup> Under the National Labor Relations Act, as amended (NLRA), union shop agreements are permitted whereby employees must obtain membership in the union within 30 days of being employed, or within 30 days after the effective date of the agreement, whichever is later. See 29 U.S.C. § 158(a)(3). However, under the Railway Labor Act (RLA), the union security requirements are substantially the same as in NLRA except that the period whereby employees are required to join a union is 60 days rather than 30 days. See 45 U.S.C. §§ 151-158.

<sup>22</sup> Robert Gorman, *Labor Law, Unionization and Collective Bargaining*, 641-42 (St. Paul: West Publishing Co., 1976).

<sup>23</sup> *Id.*, 642-43.

Under union shop agreements, labor unions must establish strict safeguards and procedures for ensuring that non-members' dues are not used to support certain political and ideological activities which are outside the scope of normal collective bargaining activities. The "union shop" or "agency shop" agreement essentially provides that employees do not have to join the union, but must support the union in order to retain employment by paying dues to defray the costs of collective bargaining, contract administration, and grievance matters.

In a line of decisions, the Supreme Court has addressed this issue and has concluded that compulsory union dues of non-members should not be used for political activities which are outside the scope of a union's collective bargaining and labor-management duties when non-members object to such use. Seven Supreme Court decisions have held that such union dues exacted from dissenting non-members were not to be used for political and ideological purposes and would have to be refunded in an expedited way to dissenting non-members in accordance with proper procedural safeguards: (1) *International Association of Machinists v. Street*, 367 U.S. 740 (1961); (2) *Railway Clerks v. Allen*, 373 U.S. 113 (1963); (3) *Abood v. District Board of Education*, 431 U.S. 209 (1977); (4) *Ellis v. Brotherhood of Railway Clerks*, 466 U.S. 435 (1984); (5) *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986); (6) *Communications Workers of America v. Beck*, 487 U.S. 735 (1988); and (7) *Lehnert v. Ferris Faculty Association*, 500 U.S. 507 (1991).

In the latest cases, the Supreme Court in 1988 handed down a landmark decision in *Communications Workers of America v. Beck* (hereinafter referred to as the *Beck* case) ruling against organized labor and held in a 5-3 ruling that non-union employees could not be required to pay full union dues if some of those funds were to be used for political and other ideological purposes.<sup>24</sup> Under § 8(a)(3) of the National Labor Relations Act (NLRA),<sup>25</sup> a labor union and an employer can enter into a contractual agreement requiring all employees in the bargaining unit to pay union dues as a condition of employment no matter whether such employees became union members or not. The Supreme Court in *Beck* concluded that § 8(a)(3) of the NLRA (1) does not permit a labor union to expend funds on non-related union activities such as political activities when dues-paying non-member employees object and (2) authorizes only those dues and fees necessary to the duties relating to labor-management relations.<sup>26</sup>

In 1991 the Supreme Court in *Lehnert v. Ferris Faculty Association*, expanded the scope of the *Beck* holdings to include also public sector employees so that such employees may not be compelled to subsidize political or ideological activities of public employee unions.<sup>27</sup> Also in *Keller v. State Bar of California*, 496 U.S. 1 (1990), the Supreme Court held that an integrated state bar, that by

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<sup>24</sup> 487 U.S. 735 (1988).

<sup>25</sup> Codified at 29 U.S.C. § 158(a)(3).

<sup>26</sup> *Id.*, 751-54, 762-63.

<sup>27</sup> 500 U. S. 507, 522 (1991).



statute is the regulatory body for the legal profession in that state and requires the payment of mandatory dues by its members, is analogous to a union, and therefore the use by the bar of mandatory dues to fund political and ideological activities, where such expenditures were not necessarily and reasonably incurred for the purpose of regulating the legal profession or improving the quality of the legal services available to the people of the state, violated the integrated bar members' First Amendment rights.

In the 104th Congress (1995-96), H.R. 1279 entitled the National Right-To-Work Act, introduced by Rep. Goodlatte on March 21, 1995 and now cosponsored by 50 other Members, would repeal the provisions of the National Labor Relations Act and the Railway Labor Act requiring employees to pay union dues or fees as a condition of employment. Similarly, S. 581, introduced by Sen. Faircloth on March 21, 1995, now having 21 cosponsors, would do the same. Neither bill has had significant legislative activity.

Congressional legislation in the 103d Congress (1993-94) would have provided for certain notification requirements by labor organizations to all of their employees within their bargaining unit or units at least annually, and to new employees within 30 days, of information relating to the use of dues for political or lobbying expenses.<sup>28</sup> If such legislation were to be enacted, employees in a bargaining unit or units would have to be notified in writing of certain information, including the notification, *inter alia*, "that an employee cannot be obligated to pay, through union dues or any other mandatory payment to a labor organization, for the political activities of the labor organization, including, but not limited to, the maintenance and operation of, or solicitation of contributions to, a political committee, political communications to members, and voter registration, and get-out-the-vote campaigns...."<sup>29</sup>

Other recent Congresses have seen the introduction of legislation that would prohibit the use of compulsory union dues of non-union members for such political purposes as: (1) voter registration drives; (2) get-out-the-vote campaigns; (3) campaign materials; (4) partisan political activities used in connection with any broadcasting, direct mail, newspaper, magazine, billboard, telephone banks, or similar political communication or advertising; (5) establishing, administering, or soliciting contributions to a separate segregated fund or PAC; (6) any other expenditure in connection with any federal election

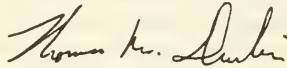
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<sup>28</sup> See generally, S. 7, 103d Cong., 1st Sess., § 113, *Protection for Employees*, pp. 13-17 (1993); H.R. 3470, 103d Cong., 1st Sess., § 6, *Limitation on Contributions and Expenditures by Labor Organizations*, pp. 10-14. (1993). See also, H.R. 708, 103d Cong., 1st Sess., § 2, p. 2 (1993); H.R. 901, 103d Cong., 1st Sess. (1993); H.R. 2307, 103d Cong. 1st Sess., § 2, pp. 2-5 (1993) [*Workers' Political Rights Act*]; H.R. 3106, 103d Cong., 1st Sess., § 11, *Protection for Employees*, pp. 11-13 (1993); and H.R. 3470, 103d Cong. 1st Sess., § 6, *Limitation on Contributions and Expenditures by Labor Organizations*, pp. 10-14 (1993). There has not been any significant legislative activity on these bills.

<sup>29</sup> See, e.g., S. 7, 103d Cong., 1st Sess., § 113(b), *Applicability of Requirements to Labor Organizations*, pp. 13-17 (1993); H.R. 3470, 103d Cong., 1st Sess., § 6, *Limitation on Contributions and Expenditures by Labor Organizations*, pp. 10-14 (1993).

including primary elections, political conventions or caucuses.<sup>30</sup> This legislation would essentially amend § 316(b)(2) (2 U.S.C. § 441b(b)(2)(3)) so as to: (1) provide that all contributions, gifts, or payments for such political activities are made freely and voluntarily and are unrelated to the exacted dues required as a condition of employment and (2) prohibit the use of compulsory union dues for certain political activities.

If such legislation were enacted into law, Congress would seem to be doing legislatively to a certain degree what the Supreme Court has done judicially in the *Street*, *Abood*, *Ellis*, *Chicago Teachers Union*, *Beck*, and *Lehnert* decisions--that is to ban the use of compulsory union dues of dissenting non-union employees for purposes unrelated to labor-management relations and collective bargaining, such as for certain political and ideological activities.



Thomas M. Durbin  
Legislative Attorney  
American Law Division

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<sup>30</sup> See, e.g., H.R. 2895 (*Dickinson et al*), 100th Cong., 1st Sess. (1987) and S. 615 (*Helms et al.*), 100th Cong., 1st Sess. (1987); S. 2595, 101st Cong., 2d Sess. (1990); cf., H.R. 5033, 101st Cong., 2d Sess. (1990). These bills did not have any legislative activity.

## STATEMENT OF PAIGE WHITAKER

Ms. WHITAKER. Thank you, Mr. Chairman.

Mr. Chairman, Mr. Vice Chairman, Members of Congress, and congressional staff, my name is Paige Whitaker, and I am also a legislative attorney in the American Law Division of the Congressional Research Service. As Mr. Durbin stated, in accordance with the long-standing policy of the Congressional Research Service, the testimony that I will be providing will be objective and nonpartisan as well.

Currently, under the Federal Election Campaign Act in Title II of the United States Code at section 441b, and under the new Federal Election Commission regulations which just became effective on March 13, 1996, certain activities by corporations and labor unions in Federal elections are exempted from the terms, contribution, and expenditure. Funds used to pay for these types of activities are commonly referred to as soft money, because they are unregulated, undisclosed, and unlimited.

The exempt corporate and labor union activities include communications by a labor organization to its members, an executive, or administrative personnel and their families on any subject; registration and "get out the vote" campaigns, by a labor organization aimed at its members and executive administrative personnel and their families; and finally, third, the establishment, administration, and solicitation of considerations to a separate, segregated fund or PAC.

As a result of these activities not being considered contributions and expenditures under the act, these labor union activities are exempt from most of the provisions of the Federal Election Campaign Act and the regulations, including those providing for limitations on contributions and reporting and disclosure requirements.

However, the amendments to the act in 1976 did add a provision to the definition of "expenditure" that required the reporting of in-house partisan communications by labor unions whenever the expenditure exceeded \$2,000 per election.

Also of relevance to labor union political activity, I would like to point out that the FEC recently promulgated new regulations in Title XI of the CFR which became effective on October 5, 1995, and they concern the definition of "expressed advocacy."

These new rules implement the 1986 Supreme Court decision in *Federal Election Commission v. Massachusetts Citizens For Life* and portions of other recent Court decisions by replacing the partisan-nonpartisan standard for labor union expenditures with an express advocacy standard.

As a result of these new rules, labor unions are now permitted to engage in a greater range of activities than they were prior to the promulgation of these regulations.

Generally speaking, a labor union is now permitted to spend an unlimited amount of soft money to make election communications to the general public if the communication is made without any coordination with any candidate. It does not expressly advocate the election or the defeat of a particular candidate, and it does not solicit contributions to influence elections.

Specifically, in relevant part, I am just going to read a little bit from the regulations for you to give you an idea of what they pro-

vide. They state: Expressly advocating means any communication that uses phrases such as "vote for the President," "reelect your Congressman," "vote pro-life," or "vote pro-choice," accompanied by a listing of clearly identified candidates who are pro-choice or pro-life defeat, and then accompanied by a picture of the candidate that they want defeated, or a communication of campaign slogans or individual words which, in the context, can have no other meaning than to urge the election or defeat of a candidate.

Or, the second part of a regulation is, when the communication is taken as a whole with limited reference to external events, such as an upcoming election, they could be interpreted only by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates.

It should be noted, however, that the second part of these regulations that I just read for you was struck down by a Federal district court in February 1996 in *Maine Right to Life Committee v. Federal Election Commission*.

In *Maine Right to Life*, a district court determined that the regulations in question were contrary to the expressed advocacy requirement that was articulated by the Supreme Court in *Buckley v. Valeo* and in *FEC v. Massachusetts Citizens for Life*.

In the 1976 case of *Buckley v. Valeo*, the Court held that limitations on independent expenditures are unconstitutional under the First Amendment and that they can only be regulated if they contain express advocacy.

Then, in 1986, 10 years later, in *Federal Election Commission v. Massachusetts Citizens for Life*, the Supreme Court held that expenditures must constitute express advocacy in order to be subject to the prohibition against labor union expenditures. So they broadened its application.

And then shortly thereafter, the Ninth Circuit, in *Federal Election Commission versus Furgatch*, found that in order to constitute express advocacy, the speech not include any specific words, just they would look to see whether the communication, when taken as a whole, and with limited reference to external events, could only be reasonably interpreted as advocacy to vote for or against a particular candidate.

Finally, I would just like to point out that the debate over what constitutes express advocacy is continuing. In addition to the possibility of an appeal of the *Maine Right to Life Committee* ruling, which invalidated the second part of the regulations, the Supreme Court has agreed to hear oral argument in a case called *Federal Election Commission v. Colorado Republican Federal Campaign Committee*. Here the Supreme Court will consider whether the statutory limits on political party expenditures should be subject to this express advocacy test. Oral argument in this case is scheduled for next month, and a decision is expected by the summer.

Now, Thomas Durbin and I would be pleased to answer any questions that the committee may have.

[The prepared statement of Ms. Whitaker follows:]



Testimony of L. Paige Whitaker  
Regarding the Law of Labor Union Political Activity  
before the House Committee on House Oversight  
March 21, 1996

Mr. Chairman and Members of the Subcommittee, my name is Paige Whitaker and I am a Legislative Attorney with the American Law Division of the Congressional Research Service. In accordance with the long-standing policy of the Congressional Research Service, the testimony that I will be providing will be objective and nonpartisan.

Generally, federal law has prohibited labor union political activities and funds from federal elections. For example, the Labor Management Relations Act of 1947 prohibited labor union contributions to federal elections.<sup>1</sup> Continuing this broad prohibition, the Federal Election Campaign Act of 1971, as amended, (FECA) prohibited labor unions from making contributions and expenditures in connection with any federal election.<sup>2</sup>

The FECA, however, provided for three exemptions from this broad prohibition, namely, (1) communications by a labor organization directed at its members or families on any subject; (2) nonpartisan voter registration and get-out-the-vote activities by a labor organization that are directed to its members and their families; and (3) the establishment and administration of a separate segregated fund (commonly known as a political action committee or PAC or SSF) for the purpose of the solicitation of contributions to be used for political purposes.<sup>3</sup>

Prior to the Federal Election Campaign Act of 1971, labor unions were engaged in such activities through the political action committee movement. Political action committees originally began as an outgrowth of the labor union movement. One of the first PACs was the Non-Partisan League PAC, which was affiliated with the Congress of Industrial Organizations (CIO). In 1955, the AFL-CIO established one of the most influential and popular PACs called Committee On Political Education (COPE). By 1968, approximately thirty-seven labor political action committees had been established. Some of the activities that these PACs were engaged in included: (1) making campaign contributions to federal and state candidates and to political committees; (2) conducting voter

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<sup>1</sup> Ch. 120, tit. III, § 304, 61 Stat. 136. 159 (1947) (Now codified at 2 U.S.C. § 441b(a)).

<sup>2</sup> 2 U.S.C. § 441b.

<sup>3</sup> See Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 205, 86 Stat. 10.

education activities; (3) conducting voter registration drives; and (4) conducting get-out-the-vote drives.<sup>4</sup>

Currently, under the FECA in 2 U.S.C. §§ 441b(b)(2)(B),(C) and under the new FEC regulations in 11 C.F.R. §§ 114.1(a)(2)(i),(ii),(iii), which just became effective on March 13, 1996, certain activities by corporations and labor unions in federal elections are exempted from the terms "contribution" and "expenditure." Funds used to pay for these types of activities are commonly referred to as "soft money" because they are unregulated, undisclosed, and unlimited. The exempt corporate and labor union activities include:

(A) communications by a labor organization to its members and executive or administrative personnel, and their families, on any subject;

(B) registration and get-out-the-vote campaigns by a labor organization aimed at its members and executive or administrative personnel, and their families; and

(C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a labor organization.<sup>5</sup>

As a result of these activities not being considered contributions and expenditures under the Federal Election Campaign Act, these labor union activities are exempt from most of the provisions of the FECA and the FEC regulations, including those providing for limitations on contributions and reporting and disclosure requirements. However, the Federal Election Campaign Act Amendments of 1976 added a provision to the definition of "expenditure" that required the reporting of in-house partisan communications by labor unions whenever the expenditure exceeded \$2,000 per election.<sup>6</sup> While this reporting requirement applies equally to both corporations and labor unions, this provision was enacted by Congress in 1976 because of congressional concerns about substantial expenditures on behalf of federal candidates by labor organizations for in-house partisan communications.<sup>7</sup>

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<sup>4</sup> The Supreme Court in *Pipefitters Local 562 v. United States*, 407 U.S. 385, 401-427 (1972), upheld and legitimized the use of separate segregated funds (also commonly known as political action committees or PACs) for political purposes as long as there was a strict segregation of the fund's monies and labor union dues and assessments. The First Amendment rights of the separate segregated funds or PACs were also noted in this decision. *Id.* 404-405, 409.

<sup>5</sup> See 2 U.S.C. §§ 441b(2)(A)-(C) and 11 C.F.R. §§ 114.1(a)(2)(i)-(iii)(1992).

<sup>6</sup> Pub. L. No. 94-283, tit. I, § 102(f), 90 Stat. 478 (1976) (Now codified at 2 U.S.C. § 431(9)(B)(iii)).

<sup>7</sup> Robert F. Bauer and Doris M. Kafka, *United States Federal Election Law*, (New York: Oceana, 1982), Part 4, Ch. 9, pp. 63-64.

Also of relevance to labor union political activity, the FEC recently promulgated new regulations at 11 CFR § 100.22, which became effective on October 5, 1995, concerning the definition of express advocacy. These new rules implement the 1986 Supreme Court decision in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, (MCFL),<sup>8</sup> and portions of other recent court decisions, by replacing the partisan/nonpartisan standard for labor union expenditures with an express advocacy standard. As a result of these new rules, labor unions are now permitted to engage in a greater range of activities than was permissible under the earlier regulations. Generally, a labor union is permitted to spend an unlimited amount of soft money to make election communications to the general public, if the communication is made without any coordination with a candidate, if it does not expressly advocate the election or defeat of a clearly identified candidate, and if it does not solicit contributions to influence federal elections.

Specifically, in pertinent part, these regulations provide that:

Expressly advocating means any communication that--

(a) Uses phrases such as "vote for the President," "re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '94," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Nixon's the One," "Carter '76," "Reagan/Bush" or "Mondale!"; or

(b) When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because--

(1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

(2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.<sup>9</sup>

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<sup>8</sup> 479 U.S. 238 (1986).

<sup>9</sup> 11 C.F.R. §100.22.

It should be noted, however, that the second part of these regulations, beginning with paragraph (b), was struck down by a federal district court in February 1996 in *Maine Right to Life Committee v. Federal Election Commission*.<sup>10</sup> In *Maine Right to Life Committee*, the district court determined that the regulations in question were contrary to the express advocacy requirement articulated by the Supreme Court in *Buckley v. Valeo*<sup>11</sup> and in *Federal Election Commission v. Massachusetts Citizens for Life*.<sup>12</sup>

In the 1976 landmark decision of *Buckley v. Valeo*, the Supreme Court held, *inter alia*, that limitations on independent expenditures are unconstitutional under the First Amendment<sup>13</sup> and that they can only be regulated if they contain "express advocacy."<sup>14</sup> Further, the Court found that "express advocacy" included words of advocacy of election or defeat, such as, "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," or "reject."<sup>15</sup>

In 1986, in *Federal Election Commission v. Massachusetts Citizens for Life*, the Supreme Court held that expenditures must constitute express advocacy in order to be subject to the prohibition against labor union contributions or expenditures.<sup>16</sup> Shortly thereafter, the Ninth Circuit in *Federal Election Commission v. Furgatch*,<sup>17</sup> found that in order to constitute express advocacy, speech need not include any of the specific words set forth in *Buckley v. Valeo*. Instead, the court of appeals found that whether a communication is express advocacy would turn on whether the communication, when taken as a whole and with limited reference to external events, could only be reasonably interpreted as advocacy to vote for or against a particular candidate.<sup>18</sup>

Further, the debate over what constitutes express advocacy continues. In addition to the possibility of an appeal of the *Maine Right to Life Committee* ruling invalidating a portion of the new express advocacy regulations, the Supreme Court has agreed to hear oral argument in *Federal Election*

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<sup>10</sup> Civil Action No. 95-261-B-H (D. Me. February 13, 1996).

<sup>11</sup> 424 U.S. 1 (1976).

<sup>12</sup> 479 U.S. 238 (1986).

<sup>13</sup> *Buckley*, 424 U.S. at 45-50.

<sup>14</sup> *Id.* at 80.

<sup>15</sup> *Id.* at 44, n. 52.

<sup>16</sup> 479 U.S. 238, 249 (1986).

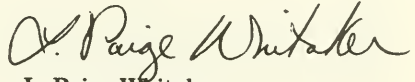
<sup>17</sup> 807 F.2d 857 (9th Cir.), *cert. denied*, 484 U.S. 850 (1987).

<sup>18</sup> *Id.* at 864.



*Commission v. Colorado Republican Federal Campaign Committee*,<sup>19</sup> Here the Court will consider whether the statutory limits on political party committee expenditures should be subject to the express advocacy test. Oral argument is scheduled in this case for April 1996 and a decision is expected by this summer.

Thomas Durbin and I would now be pleased to answer any questions that you may have. Thank you.



L. Paige Whitaker  
Legislative Attorney  
American Law Division

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<sup>19</sup> 839 F. Supp. 1448 (D. Colo. 1993), *rev'd* 59 F.3d 1015 (10th Cir. 1995), *petition for cert. granted*, 116 S. Ct. 689 (1996).

The CHAIRMAN. Thank you, Ms. Whitaker.

We will just continue with the panel and then throw it open to questions, because I have a series of them.

And our next witness, Mr. Troy, professor of economics at Rutgers University, thank you for coming.

### STATEMENT OF LEO TROY

Mr. TROY. Thank you very much, Mr. Chairman, Vice Chairman, members of the staff, for inviting me. I am very pleased to be here today.

I will begin by briefly summarizing my background in this field. I have been studying unions for the better part of four decades, and some of my recent research has been published in such journals as the University of Chicago Law Review, the Harvard Journal of Law and Public Policy, the British Journal of Industrial Relations, which is published at the London School of Economics. I have been published by the Journal of Labor Research over here at the George Mason University and the National Bureau of Economic Research, where research is impartial. And, frankly, I want to interject a personal note at this point.

I resent the idea that was presented by the ranking Minority member that participants here had to be biased. All these publications had to be refereed, and let me say further that in the field in which I work, the general political correctness that prevails, especially today, means that one has to run a pretty severe gauntlet in many instances to see an article published.

But I wanted to express my personal reaction to those remarks, and I will have a little more to say about that as I go along.

I have two premises to my testimony, first with regard to unions' responsibility to the public, and, secondly, their responsibility to their members.

With regard to the public, Congress has passed legislation going back, in particular, to the National Labor Relations Act of 1935, and it has been amended, which still protects rights of workers to form, join, and assist unions of their own choice. That law has been supplemented by a Supreme Court decision approximately 50-some years ago, *Atex Hosiery*, which granted unions immunity in all the antitrust laws unless they were working in collaboration with employers.

The point here being that our legislation has given unions a special position in our society. Therefore, on that basis, I say that unions have a responsibility to report their political activities, their political expenditures, to the public.

I am not referring now to those legal requirements that we have heard about and which are reported to the Federal Elections Commission. I will be talking about what I call in-kind contributions, which are not measured, and which can only be estimated. I have an estimate here for you.

With regard to my second premise that there is a responsibility to the membership, let me just interject at this point that, by coincidence, I happened to see Mr. Trumka on television last week when he was being interviewed about union activities, and one of the questions that arose was the assessment which the AFL-CIO is levying, he said, on their affiliates.

A caller called in to raise the issue about the individual members, and he dismissed it by saying that they are levying this assessment on the unions which are affiliated with the AFL-CIO, not the members.

Now, of course, that was deceptive, because where do the funds come from, from these affiliated unions, if not from the members of those affiliated unions?

So I want to commend the committee. Frankly, you are doing something which needs doing.

Now, I mentioned some of my research. What I have not mentioned so far was that in this area of union expenditures, union finances, I don't think it is immodest for me to say that I was one of the actual pioneers in the study of this area, and I published work on this at the National Bureau of Economic Research, which, I reiterate, has an established reputation as a nonpartisan organization.

I published in journals which I didn't mention here on this panel. These go back a good number of years, as you can see by a quick survey of me that I have been around a bit, and I did publish in this area.

But the academic community in general has shied away from this area in great measure because of the tenderness which the unions feel about this matter.

Now, if we look at legislation going back to the issue I raised about the public responsibility and that Congress has enacted laws helping the establishment of unions, in a Labor-Management Reporting Disclosure Act of 1958, Congress finally got around to doing something about union reporting of their finances. Actually, the Taft-Hartley Act, the amended Labor-Management Relations Act of 1947, had required unions to file financial reports with the various secretaries of labor, Republican and Democratic, that kept them confidential. The law of 1958 made them publicly available.

But the information that was elicited from the unions and form that they have to fill out did not identify those expenditures which would be associated with what I am calling in-kind.

For example, we have heard about voter registration, getting people to the election poll on Election Day, but one of the most—and of course personnel time. We don't know how much of the administrative costs of the unions, which are very substantial, are actually allocated to political activity. And one of the most important other elements of unions' contributions to one political party almost entirely, as the group that is now absent, are the newspapers and journals.

Now, many of you, I am sure, have heard or read about the comment—which I think it is Bernard Goldberg, a correspondent of CBS, in an article that he had in the Wall Street Journal not so long ago, in which he said, "It is well known and there is no argument out that the media are liberally biased." And he went on to say that the major media talking heads we see on the news every evening get their information either from the Washington Post or from the New York Times. The amount of original effort on their part is minimal.

If you can say that, if one can say that about these highly-paid professionals, what do you think about those with the newspapers published by unions? And there are many of them.

Now, not only do all the national and international unions have their own papers and journals, but of course large locals do as well, and I want to say it is a one-party press. I am sure that is no surprise to people sitting in this room. But the worker, the member who receives this—and they all are eligible to get it and probably do because these papers, these journals, are paid for by membership fees, and they are just overwhelmingly one-sided in favor of the Democratic Party.

Now, I said that the—I have a figure for you about an estimate I have made, and it is a conservative estimate, I believe, of how much the value might be of the in-kind contributions of unions. I saw from the Statistical Abstract in 1991, 1992, the labor union PACs had contributed about \$895 million. I have estimated this a rough rule of thumb maybe five times as much as that, and that is probably an underestimate, but I think it is better to be conservative, and I think it is a conservative estimate, and maybe close to a half a billion dollars is spent in the form of unions' time, effort, resources, to aid and abet the political party of their choice and the political candidates of their choice.

Can they afford this kind of expenditure? Well, I made another estimate. Based on my previous work years ago, I have, I think, a pretty comprehensive and fair idea of how union funding is done, and I conclude that today, just from dues receipts alone from members, the unions take in over \$6 billion a year. That is not small money. And this does not include their income from investments. So the overall size of union income is very, very substantial. So they can afford these things.

And I know from the Beck case—I know Mr. Beck is here—we will learn something about what proportion of union monies are spent on collective bargaining and related matters as opposed to other things which are not specified.

Now, I also wanted to note to this committee—and I am sure you know it, but pardon me for repeating it—in the closing months of the Bush administration, the President issued an Executive Order ordering the Labor Department to alter their reporting forms so that unions would be required to identify those expenditures which are politically related. Naturally—I say naturally, and I will emphasize that naturally—that was voided with the new administration.

Well, I want to say a couple—make a couple of other points before concluding here. We heard Mr. Fazio say something about implying really that the unions represent millions and millions of American workers. They do. They are 16 million, but not the well over 110, 120 million who are in the labor force. Today, the private sector labor union accounts for approximately 10 percent of the private work force; 90 percent of American workers are not union.

In the public sector, about 38 percent are in unions, meaning that the overwhelming majority, even in government, where there has been a very remarkable growth of unions, which I won't go into, but has a relationship to political activity too.



I think, in view of what I have just said in terms of what kind of resources are allocated, in view of the efforts to, I will say, propagandize members, that we have to look at the success of President Reagan in drawing the votes of blue-collar workers on an unprecedented scale.

We don't even have to see this even in the United States. It was true in Britain. Margaret Thatcher received anywhere from 30 percent to a third of the workers' votes, and that was in a situation where the individual member of a union was compelled to pay what they call a subscription, a financial contribution, to the labor party.

Well, I just want to conclude by saying, Mr. Chairman, I think you were right in your remarks. I sat here, frankly, enjoying and approving of them, if I may make that personal point, and I just want to remind you that there are over 16 million members of unions in this country who do not necessarily follow what they are told in their papers and in life. There is, in fact, a considerable disconnect between what the bureaucracy and the leadership have to say, and I think, frankly, that the absence of the leadership of the union movement that you invited here says something about that too.

I think that their members were aware that their leaders refused to come before a committee of the United States House of Representatives speaks volumes of what I would call—and is reflective of what I have already called a one-party way. They see things one way only.

Thank you.

[The prepared statement of Mr. Troy follows:]

PREPARED STATEMENT OF LEO TROY, PROFESSOR OF ECONOMICS, RUTGERS UNIVERSITY, NEWARK, NJ

#### I. PERSONAL BACKGROUND

Let me begin by stating that I have specialized in the study of organized labor in the US and in other countries for more than the past 40 years. My research has been published in leading journals including the University of Chicago Law Review, the British Journal of Industrial Relations (London School of Economics), the Harvard Journal of Law and Public Policy, the Journal of Labor Research (George Mason University), and publications of the National Bureau of Economics Research. I have also authored books, and am currently writing another titled, *The Twilight of Private Sector Unionism*.

#### II. PREMISES OF MY TESTIMONY

There are two premises for my testimony: First, that in an open society such as ours, unions, like other groups and individuals are entitled to engage in political activity. This is recognized at law in the reports which unions file with the Federal Election Commission. My second premise is that unions must be accountable for the resources they use for political purposes, because ultimately these resources are derived from the membership organization spends in their name and, therefore, these expenditures should reflect the wishes of the majority.

Some union expenditures are reported to the FEC, but a larger amount, which I call "in-kind" contributions, are not. "In-kind" political expenditures take the form of their newspaper and journal endorsements of candidates and parties, meeting facilities, telephone data banks, transportation to bring individuals in for registration and voting, and above all, personnel used during an election campaign.

Unions carry a special responsibility in their use of resources for reasons other than their obligations to members. First, unions are the beneficiaries of public policy to foster organizing and collective bargaining, both in the private and public sectors of the labor market. Of particular importance is the right of unions to negotiate agreements requiring membership in the organization and the payment of dues, or the equivalent of dues, except in those states which ban these agreements. In addi-

tion, the Supreme Court has ruled that unions are immune to the anti-trust laws (unless they act in collaboration with employers against consumers).

But, despite these legal protections and immunities of unions, public policy has not adequately addressed their financial responsibility to members, and to the public, particularly for political "in-kind" spending. At the federal level, Congress adopted a law requiring unions to file financial reports nearly thirty years ago, under the Labor Management Reporting and Disclosure Act, but did not require unions to identify or separate their expenditures which were political in character. In the closing months of the Bush Administration, the President issued an Executive Order requiring this information, but the Clinton Administration promptly voided that Order. Consequently, it is only possible to estimate, rather than calculate, how much unions allot from members' dues for "in-kind" political purposes. Incidentally, Secretary of Labor Reich promulgated new reporting financial forms which elicit even less information on unions' finances than in previous years.

As the Committee knows, the Beck case determined that only a small fraction, less than one-third, of unions' total expenditures was spent on bargaining and organizing. Most monies were spent for other reasons, including political purposes. The Beck finding of 31% was in the private sector; an even smaller percentage, 10% of unions' expenditures, went for collective bargaining in the public sector (the Lehnart case).

### III. THE DECISION-MAKING DISCONNECT BETWEEN THE MEMBERSHIP AND THE UNION LEADERSHIP

What role do union members play in deciding which candidates and which policies the unions' resources should support? On this matter there is no public policy. On the other hand, the law does protect individual union members' rights to secret ballot elections in choosing officers, and requires that members must be afforded the right to vote on the acceptance of a new bargaining agreement. There is, therefore, a gap in public policy as it relates to protecting members' participation in unions' political decision-making.

Do unions themselves have their own internal procedures to determine the preferences of members to guide them in making political decisions? Union leaders often claim that they do, but I am unaware of any documented reports substantiating these claims. In short, they are spending members' monies and resources without the members' consent and probably in most instances, without their knowledge. Again, this indicates a need for new policy by the Congress.

### IV. THE AMOUNT OF "IN-KIND" EXPENDITURES

Just how much money unions spend on political activities arising from members dues can only be estimated, as I have previously noted. I believe that these amounts greatly exceed those reported by unions' political action committees to the FEC.

As already noted, these political "in-kind" expenditures arise from the time spent by union staff and officials, services such as the development and the use of telephone banks, and transportation to bring voters to the polls. Unions' newspapers make another significant contribution to union political activity. The newspapers and journals are paid for union members and distributed to them and retired members. All major national and international unions publish newspapers, as do many large local and district organizations. In addition, the AFL-CIO also publishes a paper. Like its political contributions, the Labor Press favors one political party, the Democratic Party. Indeed, its reporting is so biased, that the Labor Press must be viewed as a one party press.

What, then, is the value of the unions' "in-kind" contributions in, say, a presidential election year? According to figures reported by the FEC (reproduced in the Statistical Abstract of the US of 1995), in 1991-2, union political action committees spent just under \$95 million. I estimate that "in-kind" expenditures could reasonably be a multiple of 3 to 5 times that amount.

Do unions have the income to spend from nearly \$300 to \$500 million on "in-kind" political expenditures? Very clearly they do. Conservatively, I estimate that in 1996 unions' receipts from members' dues exceeded \$6 billion. As the FEC data suggest, nearly all of their "in-kind" expenditures will go to President Clinton and Democratic candidates for the House and Senate in 1996. (My figure of total unions' receipts from members' dues is derived by multiplying the current total membership of unions, just over 16 million, by an estimated \$400 average annual dues. The results are probably conservative. Moreover, I have not added unions' income from investments in my estimate of unions' total annual receipts from dues.

## VI. THE UNIONS' NETWORK

Currently, the 16.4 million union members are domiciled in some 35 thousand organizations in the U.S. These organizations are located in every state. This means that the organized labor can extend its considerable political influence very broadly across the country. My argument is that this impressive power be held accountable to the members of unions and to the public at large.

The CHAIRMAN. Thank you, Mr. Troy.

Any written statements that you may have will be made a part of the record, and you may summarize any statement that you make.

Mr. TROY. Thank you. I have done that, and I think anything else was said extemporaneously.

The CHAIRMAN. I understand that.

Mr. Larson's turn.

## STATEMENT OF REED LARSON

Mr. LARSON. Mr. Chairman, members of the committee, the committee staff, I want to thank you and commend you.

The CHAIRMAN. Mr. Larson, if you would take the microphone. It is difficult to hear without it.

Mr. LARSON. I beg your pardon.

Mr. CHAIRMAN. Thank you.

Mr. LARSON. I will start over. Mr. Chairman, members of the committee, committee staff, I want to thank you and commend you for this activity today, and I think the boycott by spokesmen for organized labor and their close allies here in the committee demonstrates the sensitivity and importance of this hearing. They don't want the light of day shone on what they are doing in the political arena.

Let me by way of introduction explain—I have a prepared statement, and I am going to—in the interest of your generous rule that we don't have to watch the lights—I am still going to try to excerpt about 5 minutes out of it.

The CHAIRMAN. The Chair thanks you.

Mr. LARSON. Let me say—first, to identify the Committee, the National Right To Work Committee, is a citizens' organization made up of all kinds of people. Our board chairman is a long-time shop worker who was fired because he couldn't, in good conscience, pay dues to a radical union. And we have all kinds of people on our board. We have about 2 million supporting and contributing members around the country, representing the 77 percent of the American people who, by every survey, have shown that they oppose compulsory unionism.

I dug out a statement that was made a few years ago by Glen Watts, the then president of the Communication Workers of America, and here is what he said: "We in CWA have influence in this country in every conceivable way out of all proportion to our numbers," unquote. And that, Mr. Chairman, is exactly the nub of this inquiry and the concern about the interests of the American people and being represented in the political process.

We have today a system under which literally hundreds of millions of dollars taken in compulsory dues, under the authority of Federal law, are used directly and indirectly in the political process to distort the policies of government in a way that are inimical to



the best interests of the American people and to many of the working people from whom that money is taken.

Let me just get into a few items out of the prepared statement. Following up on what my very distinguished colleague here on the panel, Dr. Troy, has said, the 1993 Department of Labor reports show that private sector unions had total income of about \$13.7 billion. Of that, almost \$5 billion comes from employees who would be fired if they didn't pay.

Now, there is no dispute that this money and the union officials who oversee it have built a mammoth political machine. We saw a classic demonstration of that Big Labor political machinery in January of this year. John Sweeney and the chiefs at the AFL-CIO were showcasing their forced dues political muscle in the special election for the U.S. Senate seat in Oregon.

According to the AFL-CIO documents and press reports, 37 full-time union activists worked to elect Ron Wyden. When the dust settled, a million phone calls had been made—a quarter of a million phone calls and over 350,000 pieces of mail were used. And this is, of course, all in addition to the \$183 thousand in cash, PAC money that went into that contest.

Labor experts such as the late Victor Riesel, a man very close to the officials of organized labor and a true friend of responsible unionism, have estimated that the cost of unreported in-kind activities such as the phone banks, campaign mailings, selective voter turnout drives, and the like, is at least 10 times the reported cash PAC contributions.

And there is every indication that the level of union soft money political spending has grown even larger since Riesel wrote that report more than a dozen years ago.

In the 1992 election cycle, union strategists spent \$41 million in reported PAC contributions alone, and that we know is just the tip of the iceberg. The bulk of this mountain of union political money, over \$400 million certainly, is concealed from the public view. It is in the form of undisclosed, so-called soft money, and we can only estimate the true scope of this vast sea of money because Big Labor doesn't report this hidden spending. But we do know that most of this money they pour into elections is taken directly from workers' paychecks in forced union dues.

A few years ago, the United Steelworkers' official newsletter explained this, and here is a direct quote from that newsletter. They said about forced dues, quote, "It can't go for direct political contributions but it can do a lot. Mailings, supporting or opposing candidates, phone banks, precinct visits, voter registration, 'get out the vote' drives, contributions to national, state or local central COPEs," unquote. And the use of paid union staff is a major part of this political machine.

I might mention here that, according to the compilation of the LM2 reports from the Department of Labor, total union staff payrolls come to about \$2 billion—\$2 billion a year. You divide that out in 200 working days, that is a payroll of \$10 million a day in union staff personnel, much of which is devoted to political work, political activity, for weeks and months ahead of each campaign.

While a majority of this soft money union political spending is carefully hidden from public view, examples do come to light from



time to time. For example, the Los Angeles Times disclosed that in the 1991 special election, the United Steelworkers put 52 paid staffers to work full time in Pennsylvania to give U.S. Senate candidate Harris Wofford an upset victory.

Another unique insight into the union political machine—this one as it involved intra-party fighting within the Democratic Party—came from CBS anchorman Dan Rather. In his coverage of the 1984 Democratic presidential primary battle among Walter Mondale, Alan Cranston and John Glenn, Rather observed and this is a quote from Dan Rather: "Mondale has an edge, a big edge. There's another whole campaign being waged in Mondale's behalf, a campaign with a legally unlimited budget and no outside fiscal accountability. That campaign is being fought by organized labor," unquote.

One of the Glenn campaign staffers said, quote, "The Mondale campaign plans to call 100,000 households in this state seven times; 700,000 calls represent about 35,000 hours of calling. That in itself is about a quarter-million-dollar package that none of us could afford."

This is just little glimpse into what really goes on behind the scenes, most of which is completely hidden from public view.

Just last month, we heard from reporters covering the AFL-CIO hierarchy's conclave in Bal Harbour, Florida, in midwinter. Somebody noted, they disclosed that the union intends to supplement its already massive campaign expenditures with a special assessment of every AFL-CIO member to raise an extra \$25 million for politics. And they said that 7,300 select union organizers will be assigned to campaign duty in the 73 House target districts.

Now, we should take note of the fact, and it has been mentioned by the report from the Congressional Research experts, that on the record the Supreme Court held, in 1988, that compulsory dues of protesting members could not be used for non-collective-bargaining purposes.

This case was an important step toward eliminating this very serious misuse of compulsory dues and abuse of individual freedom. But it was just one more step in a long battle that started actually back in 1956 with the Hanson case, and after the Hanson case, the Street and Allen cases, the Ellis case, and then the Beck case. Each one gained a little ground.

But while they—the Court—has laid down a principle, the practical application of that principle is far from realized by practically every one of the American working people who are today under compulsory unionism contracts.

Roadblocks erected by Federal bureaucrats—particularly the NLRB—gutless employers, deceptive union officials, and union subservient politicians make the relief promised employees like Harry Beck in his 1988 victory unattainable for too many employees.

Your work here today is very important. Making Americans aware of this abuse is an important step in correcting the problem.

But I would like to close by pointing out that as difficult as it is to fashion campaign reform legislation that can address this problem, by simply deleting a few lines from the Federal law that compels employees to pay dues to unions which they do not want,

you will restore the right of working people to decide for themselves which political candidates and causes they want to support.

Thank you very much, Mr. Chairman.

[The statement of Mr. Larson follows:]

PREPARED STATEMENT OF REED LARSON, PRESIDENT, NATIONAL RIGHT TO WORK COMMITTEE

Every year, millions of American workers are forced to financially support political causes and candidates with which they disagree. They're workers whose employment contracts require them to pay union dues to keep their jobs.

Union officials, in turn, are pouring forced-dues dollars into politics at an unprecedented rate. The amount of money is astonishing.

According to 1993 Department of Labor reports, private-sector unions had \$13.7 billion in total receipts, \$6.1 billion of which comes from dues, fees, fines, assessments, per capita taxes and work permits.

Labor Department reports have consistently shown that about 80% of union contracts force employees to pay union dues as a condition of employment.

Therefore, payments under compulsory-union dues arrangements from the ten million workers in the private sector generate an estimated \$4.88 billion a year for Organized Labor treasuries, almost five *billion* a year from employees who would be fired if they didn't pay.

There is no dispute that this money and the union officials who oversee it have built a mammoth political machine.

We saw a classic demonstration of the Big Labor political machinery in January of this year. John Sweeney and the chiefs at the AFL-CIO were showcasing their forced-dues political muscle in the special election for the U.S. Senate seat in Oregon.

According to AFL-CIO documents and press reports, 37 full-time union activists worked to elect Ron Wyden. When the dust settled, the AFL-CIO disclosed that they placed nearly a quarter of a million phone calls and sent over 350,000 pieces of mail. This is all in addition to the \$183,000 cash in PAC money that went to Wyden.

Thanks to their federally-sanctioned privilege of taking half a billion dollars from America's workers each month, union officials guarantee themselves a steady supply of funds to spend on political operations.

With their empire fueled by forced dues, the union elites' top political objective is obvious: protect at all costs the federally-authorized privilege of ordering the firing of employees who decline to pay union dues.

Union officials spend hundreds of millions of dollars in election years to put their stamp on federal, state and local offices. Labor experts such as the late Victor Riesel, a true friend of responsible unionism, have estimated that the cost of unreported "in-kind" activities such as phone banks, campaign mailings, and selective voter turnout drives is at least 10 times the union's reported PAC contributions.

And there's every indication that the level of union "softmoney" political spending has grown even larger since Riesel wrote that report more than a dozen years ago.

In the 1992 election cycle, union strategists spent \$41 million in reported PAC contributions alone.

That, of course, is just the tip of the iceberg.

The bulk of this mountain of union political money—at least 10 times more, approximately \$410 million—is concealed from public view. It is in the form of undisclosed, so-called "softmoney."

We can only estimate the true scope of this vast sea of money because Big Labor doesn't report this hidden spending. But we do know that most of the money they pour into elections is taken directly from workers' forced-union dues.

As the United Steel Workers union newsletter explained, forced-dues money, "can't go for direct political contributions, but it can do a lot: mailings supporting or operating candidates, phone banks, precinct visits, voter registration and get-out-the-vote drives, [and] contributions to national, state or local central COPEs [i.e., union political action committees]."

The use of paid union staff is a major part of this political machine.

While the vast majority of this soft-money union political spending is carefully hidden from public view, examples are uncovered from time to time.

For example, The L.A. Times disclosed that in the 1991 special election, the United Steel Workers union put 52 paid staffers to work full-time in Pennsylvania to give U.S. Senate candidate Harris Wofford an upset victory.

During the final two weeks of the 1992 Presidential campaign, the National Education Association (NEA) union loaned one-fifth of its national headquarters staff to the Clinton/Gore campaign for round-the-clock work in the final stretch of the race.

And it is made clear to union staff personnel that performing political campaign work is not an optional activity. In 1976, when the full resources of the Communication Workers of America (CWA) union were mobilized to elect Jimmy Carter, some local union operatives didn't get involved. A top CWA official wrote to them: "I will personally monitor the list of local legislative and political committee chairpersons for the next 30 days . . . My next correspondence to you on this matter will not be in the form of a request."

Another unique insight into the union political machine—this time as it involved an intra-party battle for the Democratic Presidential nomination—came from CBS anchorman Dan Rather. In his coverage of the 1984 Democratic Presidential primary battle among Walter Mondale, Sen. Alan Cranston and Sen. John Glenn, Rather observed: "Mondale has an edge—a big edge. There's another whole campaign being waged on Mondale's behalf. A campaign with a legally unlimited budget—and no outside fiscal accountability. That campaign is being fought by Organized Labor."

A Glenn campaign operative added: "They [the Mondale campaign] plan to call 100,000 households in this state 7 times; 700,000 calls represent about 35,000 hours of calling. That in itself is about a quarter-million-dollar package that none of us could afford."

John Law, Cranston's Iowa campaign manager observed, "No one will ever know for sure how much was spent. It's limited only by [Organized] Labor's desire to spend what they will."

These glimpses of Organized Labor's forced-dues campaigning in past elections are sure to be outdone by the massive political drive being fashioned by union officials for 1996.

Just last month, reporters covering the AFL-CIO hierarchy's conclave in Bal Harbour, Florida, disclosed that the union intends to supplement its already massive campaign expenditures with a special assessment on every AFL-CIO member to raise an extra \$25 million for politics. 7,300 select union organizers will be assigned to campaign duty in 73 target House districts.

In 1988, attorneys from the National Right to Work Legal Defense Foundation appeared before the U.S. Supreme Court on behalf of a telephone lineman named Harry Beck. Harry Beck labored for 12 years through lower courts and legal red tape to be able to make one request of the justices: that he have the freedom to refuse to see his wages confiscated by union officials and spent on politics he disagreed with.

In the High Court's decision in *Beck v. Communications Workers of America*, the Court, while still maintaining Big Labor's claim to union fees for the Right to Work, vindicated Harry Beck's right—and the right of all working Americans—to refuse to pay forced dues for anything but those expenses directly related to the actual cost of union representation. In Harry Beck's case, 79% of his money was being used for purposes other than so-called "representation" costs.

But roadblocks erected by federal bureaucrats, gutless employers, deceptive union officials and union-subservient politicians have made the relief promised employees like Harry Beck unattainable for most employees.

Congress remains unmoved by the Supreme Court's decision, and utterly callous about the rights of employees forced to pay for politics they oppose. For over 60 years, the federal authorization allowing union officials to impose forced-dues contracts has remained uncontested in the halls of Congress.

Your work here today is important. Making Americans aware of this abuse is a good first step in solving the problem of American workers being forced to financially support a political agenda they oppose. Congress has the power to correct this injustice.

The National Right to Work Committee will continue its work in every arena to end the exploitation of union and independent workers alike by union officials who wield the privilege to compel these forced-dues payments.

Until we take that privilege from union officials, they will continue to exert coercive power over working Americans. The voluntarism we seek is, after all, what Samuel Gompers, a founding father of the American union movement, originally intended: "The workers of America adhere to voluntary institutions in preference to compulsory systems which are held to be not only impractical but a menace to their rights, welfare and their liberty." He urged "devotion to the fundamentals of human liberty—the principles of voluntarism. No lasting gain has ever come from compulsion. If we seek to force, we but tear apart that which, united, is invincible."



It is this sort of voluntary unionism which the 1.9 million members of the National Right to Work Committee believe will best protect not only the interest of working Americans, but all Americans.

The CHAIRMAN. Thank you, Mr. Larson.

Actually, we do not have jurisdiction over Federal labor laws. That is another committee, the Committee on Economic and Educational Opportunities.

Mr. LARSON. I understand.

I appreciate the opportunity to be here.

The CHAIRMAN. However, at some point we may contemplate holding joint hearings, because I think we can get fairly far afield of the jurisdiction of this committee if we don't bring on board those individuals who would deal directly with compulsory dues by labor unions.

But focusing on the question of political participation, Ms. Whitaker and Mr. Durbin, in your presentation, but especially Ms. Whitaker, you trace the history of the criteria necessary to determine whether or not money is spent for political purposes and, in fact, the origination of the terms "soft money" and "hard money," which I have always had trouble with, because these words are not precise.

Perhaps a precursor question would be: Professor Troy and Mr. Larson talked about in-kind contributions, either in terms of labor expended for a candidate, phone banks, or that sort of thing. These in-kind contributions that they discussed are not covered, or are they covered by either the "soft money" or "hard money" definition?

Ms. WHITAKER. Mr. Chairman, it appears under the law that that type of activity is not covered, that it, in fact, falls within the exemptions, the three exemptions that I stated earlier and, therefore, are not disclosed or not regulated, and they are unlimited, basically.

The CHAIRMAN. Who makes the decision as to whether they fall under the law or not? Is there some auditing procedure or follow-up on expenditure of funds to determine if they fall in one of those three categories and, therefore, are exempt?

Ms. WHITAKER. The Federal Election Commission has jurisdiction over these regulations that fall under this law, and there are procedures set forth in the Federal Election Campaign Act and the regulations promulgated under it, which allow for people to make complaints and allow the Commission to make investigations.

The CHAIRMAN. So there are guidelines from the FEC in terms of whether or not the expenditures are exempt—and it would require people filing a complaint—there would have to be a positive action on the part of the FEC, or does the FEC has the ability to file an action—I know we are getting maybe a little bit out of your expertise area. How does one trigger a concern that the criteria haven't been followed? I think your testimony demonstrate we have a moving target.

There used to be key phrases, and I am always fascinated in the law when you think you can exhaust the key phrases that would cover it. They are examples, I think.

The point that you make in your testimony, Ms. Whitaker, basically is that today, we are looking at communication taken as a whole, with some focus on the events, the context, the timing, as



to whether or not it would be exempt. So have we, in essence, broadened the focus on whether these communications are political or not?

Ms. WHITAKER. Yes. In fact, as the Federal Election Commission stated in their statement, with the regulations that were promulgated recently, they made that point that these regulations will appear to broaden the activities that labor unions and corporations will be able to engage in, outside of the Federal Election Campaign Act.

Also, I would like to make one other point. The regulations do state, Mr. Chairman, that you have to look at the issue—the communication, excuse me—when taken as a whole.

But I would like to also point out just for the record that that second part of the regulations was recently invalidated by a Federal district court, in that Maine Right to Life Committee. So that even throws that part of the regulations in a state of flux, and it is not clear whether the Commission is going to be appealing that ruling or not.

So it is not clear where the law will come down ultimately.

Mr. DURBIN. May I just respond briefly?

The CHAIRMAN. Yes.

Mr. DURBIN. Hard money, soft money, basically came from labor union terminology. When I examine these types of issues, I often go only to the law and not to the regulations to find out whether what is being expended is soft money.

You have to look at what in the law—find out what are the exceptions under contributions and expenditures, and they appear in two places in the law. 431—remember those exemptions to title II, U.S.C., section 431, where you have “contribution does not include” and you have a whole list of activities. And then if you go down and you find out the term “expenditure” does not include, and there is a whole list of activities, and that is going to apply, for example, to political parties, can apply to other political committees as well.

Now, if you go to that provision in the statute that prohibits labor union, as well as corporation, funds in Federal elections, you find out there are also exceptions to the definition of “contribution” and “expenditure.” That is where you get into those exceptions. Contribution and expenditure does not include communications, say, by a labor organization to its members and families. That can include a lot because the law does not explain and define “communications,” so that is going to include very many activities: Non-partisan registration, “get out the vote” campaigns, by a corporation or by a labor organization aimed at its members and their families and the establishment, administration, solicitation of contributions to a PAC.

So those exceptions are real—are your soft money provisions that you find in the act.

The CHAIRMAN. So the activity would be on how narrowly or broadly you can communicate—the administrative costs for a PAC could be fairly defined, I would think, and you would be able to determine those costs. But it must be in that broader area then of communications.

Now, there was a statement, I think it was—well, both Mr. Larson and Professor Troy were talking about money actually spent in the system versus money that is identified in the system.

Hard money is clearly identifiable, correct? I mean, you have got to file with the FEC.

Mr. DURBIN. Hard money, basically, literally speaking, is money you see. It has to be reported, disclosed. It can't be from prohibited sources such as from foreign nationals, and it has to be limited.

The CHAIRMAN. So if you look at, for example, Federal Election Commission form 7 on PAC communication costs where the AFL-CIO has a \$73,000 amount, United Mine Workers, 26, these are in the thousands-of-dollar amounts in terms of involvement on a hard money basis.

I don't think you have the figures in front of you.

Mr. DURBIN. Is that found—

The CHAIRMAN. But the President of the AFL-CIO is talking about spending \$35 million.

Now, if they are going to spend \$35 million, then where and how is that money reported? Would these expenditures be reported through the Federal Election Commission, if they say they are going to spend it on elections?

Mr. DURBIN. Not necessarily.

The CHAIRMAN. Not necessarily. Where would you find reports that would allow you to get a picture of where and how \$35 million—and we have heard some rather large numbers also presented that put zeroes behind the \$35 million in terms of total impact.

Let's focus on what the union leaders have said they are going to do. Where would you be able to go to determine where and how, or on which documents that unions have to file, could you determine where and how the \$35 million that they have stated they are going to spend would be spent? Is there any place you can go to find that?

First of all, that is soft money; is that correct?

Mr. DURBIN. It depends on what the money is used for, as to whether it is soft money or hard money.

The CHAIRMAN. Well, how can you determine then what it is used for?

What forms would the labor union have to file to allow you to know whether it is soft money or other kinds of money?

We have got hard money, soft money. What are the other kinds of money?

Mr. DURBIN. Those are the two basic categories of monies used in the Federal election process.

The CHAIRMAN. So is there money that the union can spend to generally influence elections that wouldn't fall in either the hard money or the soft money?

Mr. DURBIN. It would come under their treasury monies. Now that—treasury monies cannot be used for—in Federal elections unless they fall under those activities—unless they fall under those exempt exceptions.

The CHAIRMAN. And how do you know that it is not being spent for Federal election? If you thought it was, are there any documents that you could go to, to determine whether or not it was?

Mr. DURBIN. I would imagine you would have to go directly to the treasurer's report of the labor union to find out how it literally is all being expended.

The CHAIRMAN. And do they have to file those kinds of reports?

Mr. DURBIN. There are a number of reports that have to be filed by their political action committee, with the Federal Election Commission, for the—and there is a—for example, title II, U.S.C., section 434—10 lists contents of reports that the treasurer of a committee would have to file.

The CHAIRMAN. Those are filed with the Labor Department?

Mr. DURBIN. These would be filed with the Federal Election Commission.

The CHAIRMAN. Those are all Federal Election Commission reports?

Mr. DURBIN. Right, but they are going to be very specific and narrow types of reports, but there is a whole list of types of reports of contributions and disbursements.

Now, I am not sure how much you can pick up from that, but at least you would get a sampling of pretty much what type—what their activities will be in that area.

The CHAIRMAN. We have been trying to gather information that, and I think most of that information surrounds political action committees.

Mr. DURBIN. Yes, it would be the political action committee.

The CHAIRMAN. If they say they have created a political action committee, you can find out where the money has been spent by that political action committee by looking at the FEC?

Mr. DURBIN. It is hard money, and that is going to have to come from the political action committee.

The CHAIRMAN. That is hard money. Where do you go to find out where the soft money is spent?

Mr. DURBIN. It would have to be from the labor union.

The CHAIRMAN. The labor union determines what it is going to report?

Mr. DURBIN. Right, because these type of activities are exempted from the Federal Election Commission, because they are specifically exempted, like, for example, communications; the treasurer does not report that to the FEC.

The CHAIRMAN. Okay.

Mr. DURBIN. Because they are exemptions.

The CHAIRMAN. And what we have done is we have gone to the Labor Department to look at the reports that are filed, not with the Election Commission people where the hard money is found, but reports from labor unions that would otherwise list soft money or other activities, and I think most of you have this form.

If members in the audience don't, we will try to provide you with some.

This is form LM-2, and this was date stamped April 3, 1995, coming from then president Tom Donohue, AFL-CIO. The designation is the AFL-CIO.

On page 2, receipts and disbursements, if I were looking for where they were spending money, maybe part of that \$35 million, although it wasn't that large at this time, maybe that is one reason

they had an election and someone else won the presidency, with smaller amounts of money.

If it is a union activity that isn't on the FEC report, my assumption is, it would wind up somewhere in here. Is that correct?

Mr. TROY. I would say not necessarily, Mr. Chairman. I think that that would be reported through——

The CHAIRMAN. Professor, would you use the microphone.

Mr. TROY. I am sorry. You know, there is a Committee on Political Education, which is a separate entity. I am not—I can't be definitive on this but——

The CHAIRMAN. Well, the COPE would be hard money?

Mr. TROY. That is right.

The CHAIRMAN. The "political" on "political education" would be hard money. That would come under the FEC, and we can get that kind of detail.

Mr. TROY. I understand. I know exactly where you are going, but I misspoke.

The CHAIRMAN. I am focusing on the area——

Mr. TROY. I don't know exactly where you are going.

The CHAIRMAN. I don't know where I am going either. I am trying to understand what is happening.

Mr. TROY. I thought COPE was outside this particular report.

The CHAIRMAN. Mr. Durbin was talking about money that doesn't necessarily have to be reported with the Election Commission.

Mr. TROY. Right.

The CHAIRMAN. Money that could possibly be interpreted as political activity. Ms. Whitaker talked about how there has been a history of a change in the definition. Apparently we still have got court cases in front of us that are continuing to change it.

Mr. LARSON. Mr. Chairman.

The CHAIRMAN. Yes, sir.

Mr. LARSON. The \$41 million in cash PAC contributions is just the hard money that went to candidates. The law provides that the entire cost of administration of raising that \$35 million to \$41 million comes out of soft money, out of compulsory dues, and we don't know but what they may spend \$41 million in staff time going around putting pressure on employees to contribute the money.

The CHAIRMAN. Well, but the administrative costs, under the law, can be expended by labor unions?

Mr. LARSON. Right.

The CHAIRMAN. And it wouldn't show up on an FEC report; is that correct?

Mr. LARSON. That is correct.

The CHAIRMAN. The administrative costs for the political action committee would not show up on the FEC report?

Mr. DURBIN. That is right. It is considered an exception to the contribution expenditure.

The CHAIRMAN. It would be a cost to the union carrying on its functions?

Mr. DURBIN. That is right.

The CHAIRMAN. Well, wouldn't it show up on this, LM2, which is kind of a disbursement—receipt and disbursement sheet?



The total on the bottom is \$142 million, and there are categories; for example, educational and publicity expense, \$18 million. That may or may not be one. Office and administrative expense, \$7.9 million. That may be where it would occur.

Mr. DURBIN. That is probably where it is going to appear.

The CHAIRMAN. That is probably where it is going to appear, but we don't know that.

Contributions, gifts, and grants, \$2,900,000. There is some specificity to that on page 6 of the form that you have. The \$2,900,000 is distributed to religious organizations, \$22,000; labor related organizations, \$81,000; international organizations \$697,000; civic organizations, \$2,144,000.

Where might we go to get a clearer breakdown of that 200-plus million dollars as to what civic organizations received it? Would that be required to be filed by unions or not?

Mr. DURBIN. I think you are going to have to go to the labor union treasury to find out how that actually is broken down.

The CHAIRMAN. So we would have to go to the unions themselves and request that they explain to us in detail, beyond the forms required by the law, where and how that money is expended.

So if we are trying to understand how much actual soft money there is and where it is being spent, whether it is in the political system fairly indirectly or very indirectly, we can't go either to the forms filed for the FEC, the Federal Election Commission, or the forms filed by the labor unions with the Department of Labor, which only explains in a very general way where and how they spend their money.

So I guess what you are telling me is that the only place we can get this information is from the unions themselves?

Mr. DURBIN. Yes. Basically, soft money is secret money.

Mr. LARSON. Mr. Chairman, it occurs to me—

The CHAIRMAN. But just a minute, please.

So the only way we can understand what the labor unions have actually said in terms of the dollar amounts is to ask them directly, because under the law the filing requirements of labor unions simply will not provide you with an adequate picture to understand what is really going on; is that correct?

Mr. DURBIN. From what I have seen, you would have to go to the union treasury.

The CHAIRMAN. That is one of the reasons we invited the unions, so we could ask them, but they obviously declined to come. We are going to have to figure out a way to have them come.

Mr. LARSON. Mr. Chairman, it occurs to me—our sister organization, the National Right to Work Legal Defense Foundation, could be of assistance to the committee. That Foundation, which provides free legal counsel to the employees to assert their rights, is running about 300 cases for employees, many of them trying to help the employees assert the rights that were promised to them under the Beck case, and this involves an enormous amount of discovery.

We have, in some cases, two or three file cabinets full of discovery information, trying to sort out the creative accounting which union officials use in trying to cover up their political activities. But this is all—these things are thrashed out in court decisions, so it does put on the public record in court hearings a great deal of

information that would—that would be, I think, useful to the committee, and it might be that you would want to consider seeking some of that information.

The Foundation does not lobby, does not advocate legislation, it just provides free legal counsel to employees.

The CHAIRMAN. Well, we obviously want to get as much information as we can to understand the involvement of a somewhat unique institution in the political process. I would hope that we could get the information the way we have about political parties and PACs and others, and that is, ask them at a hearing and we will be told.

I am not interested in trying to get it from court cases either initiated by us or by others. My goal, of course, will be to have them explain to us the manner in which they participate in the political system. Our job is to understand how money affects Federal elections. If we are going to pass legislation to create, at a minimum, disclosure so that the public knows when and how money is being spent in the system, I would think that they would want to participate in that examination.

The gentleman from Ohio.

Mr. NEY. Mr. Chairman, I wanted to address my questions on a couple of ways that money can be used and also make it clear—no offense to Mr. Larson—I don't support right to work, but I won't walk out of here. You have every right to be here and express your opinion.

I am interested in actually to ask Mr.—probably Mr. Durbin or someone else on the panel, on a legal basis, if an advertisement attacks a candidate but doesn't expressly advocate their defeat, can mandatory union dues pay for that?

So a lot of people like to know where their money goes to and what the candidate's, you know, stances are. So I think it is a matter of disclosure, and I guess there is a fine line. Is it an attack ad, or is it an advocacy ad directly to defeat a candidate, that may make that fine line.

One other thing I wanted to ask is about a—you may not be able to answer this either. If a union would send union members, for example, from my area or my State into another State to organize a campaign against a congressional candidate, is that in-kind? Or do we—would we have a way of knowing who paid for the salaries or was that out of an education fund? Is there any way we know those types of thing?

I wish the union was here today, again, as a friendly member up here, to ask them some questions I would like to know.

But I don't know if you can answer that. Is that available?

Mr. DURBIN. There are—under the exemptions to contributions and expenditures, you have to—there are a lot of terms that can be broadly defined. It may fall under such things as voter registration, "get out the vote," voter education, things like that. Those are—those type of activities are going to be exempted under the soft money exemptions, properly called soft money exemptions.

In your situation, I have a feeling that maybe they do—will fall under that. If not, there could be a problem if they use union treasury funds for Federal political activity.

Mr. NEY. In this—

Mr. DURBIN. That is prohibited.

Mr. NEY. One thing. Within the AFSCME rules, at least within Ohio—I don't know if this is national or not—if a member of a union—I know the Highway Department in Ohio—a member of the union does not like the candidate that the union has, in fact, given money to, they can ask for part of their money back, I believe.

Is that in the law, or is that union policy?

Mr. DURBIN. That must be a union policy. Any laws I have read have not said that.

But let me see if Paige wants to answer that.

Ms. WHITAKER. In some cases, it is my understanding that as a result of a Supreme Court case, *Communications Workers of America v. Beck*, if it is a nonunion member who is paying some dues and he or she decides to object, just the portion, however, of those dues that are going to support a particular candidate, it is my understanding that the Supreme Court in the *Beck* case said that, because that is political speech and, ergo, highly protected under the First Amendment, that the member could request return of just that portion, obviously not the whole dues because he or she does have to pay for, you know, labor management negotiations and other things that the labor union typically engages in.

But the political activity, the Court did say that there is a First Amendment interest there and therefore that nonunion member could request refund of just that portion.

The CHAIRMAN. And the gentleman well knows, on the next panel, we will have Mr. Beck.

Mr. NEY. Yes.

One other question, I guess—and it will be my last one, Mr. Chairman—is just a generic question of anyone who would like to answer. But whether this was the topic of unions today or Christian Coalition or, you know Right to Life, or whatever group it would be—and we will look into other areas similar to this, these types of structures—but do you have in a nutshell what we should contemplate so that, in fact, you know, disclosures are out there so that rank-and-file members know where their money is spent?

Are there any generic, you know, ideas you might have in a nutshell?

Mr. TROY. My reaction and the theme really for me has always been accountability. And what I didn't mention in my remarks but it is in my prepared remarks, that is, Congress saw to it that union members have a right to vote on an agreement. They have a right to secret ballot elections.

So why should Congress be incapable of ensuring that members of unions' monies, especially those which are compelled dues, be spent as they wish and not as some bureaucrat or leader decides?

Accountability, it seems to me, is the key idea.

Mr. LARSON. Well, as to a course of action, I was encouraged by the comment by the chairman that there is a possibility of joint hearings with the labor committee so that you could take up this question of compulsory dues support, because the clean-cut, simple, effective way and fair way to solve this problem is to just delete a few lines out of the Federal labor law which establish the problem of compulsory unionism.



Now you mentioned the union in your district that purports to give a political refund. The political refunds, based on the union calculations, are usually a farce, a fig leaf.

The problem, in asserting the rights under the Beck case, is the dispute and the enormous procedural problems that occur in trying to establish what is the fair amount of refund.

A few years ago, a union in New Jersey said that they were—would refund the political money. It was 1 cent a month, and the employees had to file for it by registered letter.

This is the height of cynicism, but it illustrates how totally unsatisfactory is the union's own calculation of what they are spending for politics.

Mr. NEY. One thing I would say, Mr. Chairman, and one thing I would say is that I don't think the topic here today is compulsory unionism, because I don't mind the union at all, and I believe in the ability to organize completely, but what I would stand up and defend is the right of any of my rank and file that I represent has the right to not contribute if they don't want to politically. They shouldn't be forced—you know, I have got a lot of my rank and file. They don't want to be forced to contribute. That is not the open, democratic way.

But I don't think the topic is not unionism; the topic is, no matter who it was, if I were in a company, I shouldn't be able to tell my employees, "You shall contribute."

The CHAIRMAN. This is one of the problems, and, as I said, maybe we might have to end up doing some joint hearings, because there is one clear question, and that is, to what extent do unions have responsibilities to their members, accountability, or the internal transparency of the use of the members' money within a union? But that is really, I think, the area that is not within our jurisdiction.

As the title of the hearing indicates: "Influencing elections, the political activities of labor unions," I want to focus on the question of labor unions in the electoral process, and not just the labor union members' right to know but the voters' right to know; the influence of unions in elections. We need to know to what extent unions are participating in the election process, utilizing funds that are not known either through the Federal Election Commission or through the reports that unions are required to make with the Department of Labor which are, in fact, completely outside any accountability for their involvement in the election process.

That is something we should be concerned about, as I would be concerned with any organization that participates in that way, without accountability, without disclosure. I don't know whether the unions chose not to appear out of arrogance or fear, but we are going to find out why they didn't appear.

But to give you an idea, the gentleman from Ohio's concern about communications with members and—do we have a vote on the floor?

Mr. EHLERS. Yes.

The CHAIRMAN. Let me see if we can make this point: It is clear that unions have the ability to communicate with their members; that is fundamental; and, in fact, I was surprised to find out that



political parties don't have that same unlimited ability to communicate with their members that labor unions have.

So in the sense of communication of a political message, unions have more freedom under the law than political parties which are created for the purpose of dealing with politics. Parties don't have, under the law, the ability to communicate with their members at the same level that unions do. But unions clearly have the right to communicate with members.

I understand the right to produce an in-house newspaper. I don't think there is anything wrong with people who want to communicate with their members to produce an in-house newspaper.

The ultimate question is how far can you go though in communicating with your members in general forms of the media and still have it fall under the rubric of communication with your members?

Do we have any bright lines there, either in the law or court cases?

When does it spill over into supposedly sending a message to your union members, which clearly goes beyond that, or is it more the content of the message that determines it rather than the spill-over? Do you have any guidance for us on that?

Is it what is communicated or how it is communicated? Or the usual communication is both.

Ms. WHITAKER. Well, one point that the law does make is, to whom it is communicated is very important, and the communications that are unlimited on any topic can only be to their members, executive or administrative personnel, and then their families.

The CHAIRMAN. Okay. So any subject matter in-house?

Ms. WHITAKER. Yes.

The CHAIRMAN. The subject matter that goes outside the union family then falls into the general description that you gave us earlier about content, that you can't advocate the election of a candidate or the communication is taken in context; is that where it falls?

Ms. WHITAKER. Yes. It appears under the law, Mr. Chairman, that that is correct.

The CHAIRMAN. Okay. If we could look at some videotape—Chris, could we look at some videotape, to see whether—this obviously is being run over television and is obviously not an internal communication criterion. This would fall under content, whether or not it is a political subject matter.

[Video ad played.]

The CHAIRMAN. Well, that has an AFL-CIO tag on the end, so obviously they are funding it in a fairly direct way. It was run this year during an election year, activity involved.

Here is another one.

[Video ad played.]

The CHAIRMAN. So that is not a political ad; is that correct?

Ms. WHITAKER. First, I would like to make a disclaimer that I think for CRS it is very difficult for us to make a factual—a legal determination on a set of facts just off the cuff.

The CHAIRMAN. I understand.

Ms. WHITAKER. We probably prefer to research it a little bit and get back to you afterwards for submission to the record.



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96 APR -1 PM 1:13

HOUSE OVERSIGHT

March 28, 1996

cc: ES, JS, CS, LB

TO : House Committee On Oversight  
Attention: Chairman William M. Thomas

FROM : Thomas M. Durbin and L. Paige Whitaker,  
Legislative Attorneys, American Law Division

SUBJECT : Labor Union Political Advertisements

This memorandum is furnished in response to your request for a legal analysis of two political advertisements, the texts of which read as follows:

First Video:

**SCREEN:** Representative Greg Ganske  
Voted for Shutdown

**AUDIO:** Our Congressman has a bad budget plan for America and he was even willing to shut-down the government to force it on us.

**SCREEN:** Representative Greg Ganske  
Cut Medicaid and Medicare

**AUDIO:** He wants to cut medicaid and medicare for our parents,

**SCREEN:** Representative Greg Ganske  
Cut Education and College Loans

**AUDIO:** cut education, and college loans.

**SCREEN:** Representative Greg Ganske  
Tax Breaks for the Rich

**AUDIO:** All to give a huge tax break to big business and the rich.

**SCREEN:** Representative Greg Ganske  
How Far Will He Go?

**Audio:** How far will he go?

**SCREEN:** Representative Greg Ganske  
Voted for Shutdown

**Audio:** He went along with Newt Gingrich and shut-down the government, but kept taking his own paycheck and perks.

**SCREEN:** Call Representative Greg Ganske  
1-800-765-4440

**Audio:** Paid for by the Men and Women of the AFL-CIO  
Let's tell Congressman Ganske to stop the political games and stand-up for working families, for a change.

## CRS-2

Second Video:

**SCREEN:     Congressmen Rick White & Randy Tate  
Federal Budget Vote**

Audio:       Our Congressmen voted with Newt Gingrich and against Working Families.

**SCREEN:     Congressmen Rick White & Randy Tate  
Cut Medicare**

Audio:       They voted to cut medicare,

**SCREEN:     Congressman Rick White & Randy Tate  
Cut Education**

Audio:       education, and college loans.

**SCREEN:     Congressman Rick White & Randy Tate  
Tax Breaks for the Rich**

Audio:       All to give a huge tax break to big corporations and the rich. But President Clinton said "no." He stood up for working families and sent the Gingrich budget back to Congress.

**SCREEN:     Call Congressmen Rick White & Randy Tate  
1-800-765-4440**

**Paid for by the Men and Women of the AFL-CIO.**

Audio:       Now it's up to us. We need to get involved and speak out. Let's tell Congressmen White and Tate, "This time don't vote for the wealthy special interests, this time vote for America's working families."

First, we will examine these political ads under the Federal Election Campaign Act, as amended, (FECA or Act), and second, under relevant court decisions and Federal Election Commission (FEC) regulations, particularly under the new regulations concerning "express advocacy," which were promulgated with the intent to implement portions of recent court decisions.

## I. Federal Election Campaign Act

At first glance, the union TV ads seemed to have been problematic under the FECA because of the strict prohibition on labor unions making contributions and expenditures in federal elections.<sup>1</sup> On further examination, however, since the ads did not relate specifically to any federal election and since there was no "express advocacy" of the election or defeat of the named

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<sup>1</sup> 2 U.S.C. § 441b(a) states: It is unlawful...for any labor organization, to make a contribution or expenditure in connection with any [federal] election...." Also, the "term contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value...to any candidate, campaign committee, or political party in connection with any [federal] election.... Also an "expenditure" under the Act includes: "...any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made by any person [person includes labor organizations (2 U.S.C. § 431(11))]] for the purpose of influencing any election for Federal office...."

## CRS-3

candidates, they would seem to be permissible under the Act and the FEC regulations.

Under the Act, labor unions have been prohibited from making contributions or expenditures "in connection with" any election for federal office. Labor union contributions and expenditures, outside of its PAC, are thus banned for any federal election, including primary elections, political conventions and caucuses nominating federal candidates.<sup>2</sup> However, the terms "contribution" and "expenditure" for labor unions would not include the following activities since they have been exempted under the so-called "soft money" exemptions for labor unions under section 441b of the Act: (1) communications by a labor organization to its members and their families on any subject, (2) labor union organized nonpartisan voter registration and get-out-the vote drives aimed at its members and their families, and (3) the establishment, administration, and solicitation of contributions to a labor political action committee (PAC)<sup>3</sup> to be utilized for political purposes.<sup>4</sup>

Assuming for the sake of argument that the political ads were independent expenditures<sup>5</sup> of the AFL-CIO labor PAC, they would no doubt be allowed under the Act. As independent expenditures, they would have to be reported and disclosed to the FEC. A labor PAC must regularly file reports<sup>6</sup> with the FEC of receipts and disbursements according to certain schedules. Every political committee, including labor political action committees, making independent expenditures, must report and itemize such expenditures to the FEC on Schedule E.<sup>7</sup> Also, if the political ads utilized some type of the soft

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<sup>2</sup> 2 U.S.C. § 441b.

<sup>3</sup> The term "political action committee (PAC)" does not appear in the FECA; rather PACs are generally referred to as separate segregated funds (SSFs). PACs can also be nonparty multicandidate political committees when they meet certain criteria: (1) registered with the Federal Election Commission (FEC) for at least six months, (2) received contributions for federal elections from more than fifty persons, (3) made contributions to five or more federal office candidates. 2 U.S.C. § 441a(a)(4); 11 C.F.R. § 100.5(e)(3).

<sup>4</sup> 2 U.S.C. § 441b(b)(2).

<sup>5</sup> Under 2 U.S.C. § 431(17), an "independent expenditure" means "...an expenditure by a person ["person" includes a labor organization, 2 U.S.C. § 431 (11)] expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agency of such candidate."

<sup>6</sup> See generally, 2 U.S.C. 434 (reporting requirements).

<sup>7</sup> 2 U.S.C. § 434(c) (reporting independent expenditures). See also, *Campaign Guide For Corporations And Labor Organizations*, (hereinafter *Campaign Guide*), Federal Election Commission, ch. 7, at p. 39.



money exception, namely communications by the labor union to its members and their families, they would not be problematic under the FECA.<sup>8</sup>

We are assuming for the purposes of this analysis that there had been no coordination with or cooperation between the labor organization funding these ads and any federal office candidate or political party since such coordination and cooperation could characterize the expenditures as contributions and thus be banned under section 441b. However, under such a scenario, the labor union would then have to resort to its PAC to pay for such ads and report them to the FEC.<sup>9</sup>

Another provision of the Act worth mentioning is the disclaimer or attribution clause for political statements.<sup>10</sup> The clause requires that: "[W]henever any person ["person" includes a labor organization<sup>11</sup>] makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public, political advertising, such communication—...(3) if not authorized by a candidate, and authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee."<sup>12</sup> It is clear that there was an attempt to comply with the disclaimer clause by printing: "Paid for by the men and women of the AFL-CIO." But, if the ads were paid for by the AFL-CIO PAC, the PAC should have been mentioned in the ads. Thus, if a labor PAC were to use such ads not authorized by the candidate or the candidate's campaign, then the notice must (1) identify the labor PAC that paid for the communication and (2) state that it was not authorized by the mentioned candidate or candidate's committee. [For example, the FEC would allow: "Paid for by the Fishermen's Union PAC and not Authorized by Any Candidate or Candidate's Committee."]<sup>13</sup> However, since these TV ads may not have been in connection with a federal election and since they did not expressly

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<sup>8</sup> *Ibid.*

<sup>9</sup> See generally, 2 U.S.C. § 431 (17) (definition of "independent expenditure").

<sup>10</sup> See, 2 U.S.C. § 441d (a) (publication and distribution of political statements). In a federal district court decision construing former 18 U.S.C. § 612 on which 2 U.S.C. § 441d is based, it was found that the provision requiring an attribution clause for communications was comprehensive enough to even include a bumper sticker even though the Justice Department had not generally investigated or prosecuted cases involving the publication of bumper stickers. *United States v. Insco*, 365 F. Supp. 1308, 1310-11. (M.D. Fla. 1973).

<sup>11</sup> 2 U.S.C. § 431(11) (definition of "person").

<sup>12</sup> 2 U.S.C. § 441d(a)(3) (publication and distribution of political statements).

<sup>13</sup> *Campaign Guide, supra*, Federal Election Commission, ch. 4, at p. 23, 1994.

## CRS-5

advocate "...the election or defeat of a clearly identified candidate..." the attribution in the ads would probably pass legal muster.

## II. Court Decisions and Federal Election Commission Regulations

Currently, under the new FEC regulations at 11 C.F.R. §§ 114.1(a)(2)(i),(ii),(iii), which became effective on March 13, 1996, certain activities by corporations and labor unions in federal elections are exempted from the terms "contribution" and "expenditure." Funds used to pay for these types of activities are commonly referred to as "soft money" because they are unregulated, undisclosed, and unlimited. The exempt labor union activities include, in pertinent part:

(A) communications by a labor organization to its members and executive or administrative personnel, and their families, on any subject;

(B) registration and get-out-the-vote campaigns by a labor organization aimed at its members and executive or administrative personnel, and their families; and

(C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a labor organization.<sup>14</sup>

As a result of these labor union activities not being considered contributions and expenditures under the FEC regulations, they are exempt from most FEC regulatory requirements, including those providing for limitations on contributions and reporting and disclosure requirements. Therefore, if the subject advertisements were to qualify as one of the three exempt political activities, then they would appear to constitute unrestricted soft money expenditures.

Also effective March 13, 1996, the FEC promulgated new regulations at 11 CFR § 114 replacing the previous partisan/nonpartisan standard for labor union expenditures with an express advocacy standard. As a result of these new rules, according to the stated intent of the FEC, labor unions are now permitted to engage in a greater range of activities than was permissible under the earlier regulations.<sup>15</sup> The FEC also recently promulgated new regulations at 11 CFR § 100.22, which became effective on October 5, 1995, concerning the definition of "express advocacy." These new rules were promulgated with the intent to implement the 1986 Supreme Court decision in *Federal Election Commission v.*

<sup>14</sup> 11 C.F.R. §§ 114.1(a)(2)(i)-(iii)(1996).

<sup>15</sup> Corporate and Labor Organization Activity; Express Advocacy and Coordination With Candidates, Summary, 60 Fed. Reg. 64,260 (1996).

## CRS-6

*Massachusetts Citizens for Life, Inc., (MCFL)*,<sup>16</sup> and portions of other recent court decisions.<sup>17</sup>

Specifically, in pertinent part, the new regulations defining "express advocacy" provide that:

Expressly advocating means any communication that--

(a) Uses phrases such as "vote for the President," "re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '94," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Nixon's the One," "Carter '76," "Reagan/Bush" or "Mondale!"; or

(b) When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because--

(1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

(2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.<sup>18</sup>

It should be noted, however, that the second part of these regulations, beginning with paragraph (b), was struck down by a federal district court in February 1996 in *Maine Right to Life Committee v. Federal Election Commission*.<sup>19</sup> In *Maine Right to Life Committee*, the district court determined that the regulations in question were contrary to the express advocacy

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<sup>16</sup> 479 U.S. 238 (1986).

<sup>17</sup> Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures, 60 Fed. Reg. 35,292 (1995).

<sup>18</sup> 11 C.F.R. §100.22.

<sup>19</sup> Civil Action No. 95-261-B-H (D. Me. February 13, 1996).

## CRS-7

requirement articulated by the Supreme Court in *Buckley v. Valeo*<sup>20</sup> and in *Federal Election Commission v. Massachusetts Citizens for Life*.<sup>21</sup>

In the 1976 landmark decision of *Buckley v. Valeo*, the Supreme Court held, *inter alia*, that limitations on independent expenditures are unconstitutional under the First Amendment<sup>22</sup> and that they can only be regulated if they contain "express advocacy."<sup>23</sup> Further, the Court found that "express advocacy" included words of advocacy of election or defeat, such as, "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," or "reject."<sup>24</sup>

In 1986, in *Federal Election Commission v. Massachusetts Citizens for Life*, the Supreme Court held that expenditures must constitute express advocacy in order to be subject to the prohibition against labor unions making expenditures from their general treasury funds in 2 U.S.C. § 441b.<sup>25</sup> Therefore, it appears that under the holding in *Massachusetts Citizens for Life*, labor unions could make independent expenditures from their general treasuries so long as they do not expressly advocate the election or defeat of a clearly identified candidate.

Shortly thereafter, the Ninth Circuit in *Federal Election Commission v. Furgatch*,<sup>26</sup> found that in order to constitute express advocacy, speech need not include any of the specific words set forth in *Buckley v. Valeo*. Instead, the court of appeals found that whether a communication is express advocacy would turn on whether the communication, when taken as a whole and with limited reference to external events, could only be reasonably interpreted as advocacy to vote for or against a particular candidate.<sup>27</sup>

Assuming that the communication of the subject political advertisements was made without any coordination with a candidate, it seems necessary to determine whether they constitute express advocacy of the election or defeat of a clearly identified candidate. Based on the relevant case law and FEC regulations discussed *supra*, it appears that if the subject political advertisements do not contain "express advocacy," they would not be subject to

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<sup>20</sup> 424 U.S. 1 (1976).

<sup>21</sup> 479 U.S. 238 (1986).

<sup>22</sup> *Buckley*, 424 U.S. at 45-50.

<sup>23</sup> *Id.* at 80.

<sup>24</sup> *Id.* at 44, n. 52.

<sup>25</sup> 479 U.S. 238, 249 (1986) (stating that "[w]e therefore hold that an expenditure must constitute "express advocacy" in order to be subject to the prohibition of § 441b.")

<sup>26</sup> 807 F.2d 857 (9th Cir.), *cert. denied*, 484 U.S. 850 (1987).

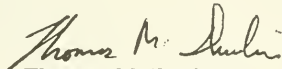
<sup>27</sup> *Id.* at 864.

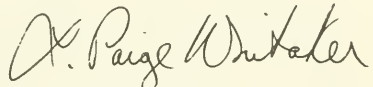


## CRS-8

the prohibition against labor unions making expenditures to finance a political communication. In view of the holding in *Maine Right to Life Committee*, which struck down the second half of the FEC express advocacy regulations, we would reserve our analysis to the remaining first portion, section (a), of the regulations defining "express advocacy." Section (a) of the regulations seem to indicate that, in order for these ads to constitute express advocacy, a specific phrase exhorting a vote against Representative Greg Ganske or Congressmen Rick White and Randy Tate would be necessary. The ads, however, never specifically advocate that the viewer take any specific electoral action; they simply advocate that the viewer call a certain phone number.

In we can be of further assistance, please do not hesitate to contact us.

  
Thomas M. Durbin  
Legislative Attorney

  
L. Paige Whitaker  
Legislative Attorney

Ms. WHITAKER. But I would like to say, generally speaking, that the law—the state of the law currently appears to be that, unless there is an express advocacy that the communication contains, putting forth a message, defeat this particular clearly identified candidate or elect this clearly identified candidate, that it is going to be able to pass through without the regulation and the limitations that attach.

The CHAIRMAN. The clearly identified candidate criterion?

Ms. WHITAKER. Yes.

The CHAIRMAN. But the criterion that wasn't met is that they didn't say elect or defeat? That is what they are hinging it on?

Ms. WHITAKER. That appears how they could get away with this.

The CHAIRMAN. I do want to see the research on it, because this means then that without that little trigger they can go this far and it is not a political ad. It doesn't have to use hard money. It doesn't have to be disclosed. It is communicating with their members.

Ms. WHITAKER. It appears that an argument could be made that this was a type of voter education, without the clear express advocacy, you know, defeat candidate X or elect candidate Y.

The CHAIRMAN. And if it was voter education, that money would show up where, in terms of how much cost these ads were to produce and run on the air. That cost would be where? Would it be on the FEC report? No.

Ms. WHITAKER. Mr. Chairman, that was the problem that you were quite appropriately identifying earlier, that this is coming through what we call soft money, and, as Mr. Durbin stated, it tends to be, quote, secret money and that there is not an easily accessible place to get this money.

The CHAIRMAN. So if you wanted to know how much that ad cost and how much money they were spending on activity like this in targeted congressional districts around the country, currently you would not be able to obtain that kind of information unless the labor union voluntarily provided it?

Ms. WHITAKER. Or perhaps, as Mr. Durbin earlier suggested, going to the treasury of the particular labor union.

The CHAIRMAN. But wouldn't they have to voluntarily provide it? And if they chose not to, we would have to involuntarily get them to provide it?

Mr. DURBIN. Generally, that is correct.

The CHAIRMAN. We have a vote on. We will stand in recess until we can run over and vote and come back.

[Recess.]

The CHAIRMAN. The committee will reconvene. Thank you very much.

I believe when we broke before the vote that CRS was requesting some time, and I certainly agree with that, because what I would very much like, and you got this out of similar ads, to analyze, and I guess the best way to put it would be both audio and video, because I don't know whether it is what is said or what is shown that makes the difference, so that you could break out for us where and how this is not a political ad. And if you can do it, if something had been omitted, I think we know what; if it had been added would make it a political ad, or some subtle variation of that; but

what would it be that is in the ad that, if it were omitted, would not make it information.

Do it both from an additive and a subtractive point of view, because I do think a better understanding of how this changing definition works with real examples makes it a whole lot easier for people to understand why something like this is not a political ad.

Mr. DURBIN. That would be fine, Mr. Chairman. I was wondering if we could borrow or get a copy of the videotape.

The CHAIRMAN. Sure. Unfortunately, I believe we have a number of examples that we can provide to you. Examples of this are not limited.

The chart which I have up—or just to have you take a look at, I was trying to get staff to begin the process of comparing, and I think we have this in print for you as well.

I am trying to create a matrix on subject matter, and over on the left are political activities. It may be too fine a print for you to see. What you have is an attempt to put a yes or no in the various boxes, and what concerns me as we begin doing this are the number of times yes appears in the political party box and the number of times noes appear in both the corporation and the union boxes in areas of involving themselves in activity that, if not narrowly defined under law, would be political in a general sense—I think in a layman's view, would be participating in the broader sense in the political process.

	DISCLOSURE REQUIREMENTS FOR UNIONS, CORPORATIONS, AND POLITICAL PARTIES		
POLITICAL ACTIVITY	UNION	CORPORATION	POLITICAL PARTY
Contributions from and expenditures by federal political committee	YES	YES	YES
Fundraising and administrative expenses of federal political committee	NO	NO	YES (unless the activity is wholly nonfederal)
Communications expressly advocating the election or defeat of candidates to members of the organization	Only if over \$2,000 per election. (applies to union executives, members and their families)	Only if over \$2,000 per election. (applies to executives, stockholders and their families)	YES
Non express advocacy expenditures directed at members or the general public for <u>voter education</u> related to federal elections	NO	NO	YES
Non express advocacy expenditures directed at members or the general public for <u>voter registration</u>	NO	NO	YES
Non express advocacy expenditures directed at members or the general public for <u>voter turnout</u>	NO	NO	YES

*Source: Federal Election Commission regulations*



One, I need to know, with your analysis, if it is accurate or inaccurate; and, two, what do we not have on there in terms of boxes that could be addressed with a yes or a no to get a full understanding of the way in which, under the law, unions vis-a-vis corporations, vis-a-vis political parties, are treated in their participation in the process.

I know Mr. Larson has volunteered in a number of ways, but I am really making this request of the Congressional Research Service, which is a facility that is available to us, and with their information, with all due respect to you, Mr. Larson, and any groups you may be affiliated with, I might have a better chance to have folks look at it in an objective way. Not that your material wouldn't be accurate; it is the perception of those other folks that I am concerned about.

Mr. DURBIN. We would be better able to answer your question if we could just respond to you in, say, a week, give you other examples that should be on that chart.

The CHAIRMAN. Sure. That would be great.

Mr. DURBIN. I think that often for research we need more time to do the best research.

The CHAIRMAN. Absolutely. And obviously, if you are only asking for a week, that is a very reasonable time frame.

Mr. DURBIN. I am giving you a rough estimate of a minimum amount of time.

The CHAIRMAN. A reasonable amount of time, because we want to put it into our deliberative process as we shape legislation, not so narrowly in terms of unions in their accountability and transparency with the dollars from their members in the larger context, especially with the headlines that are being generated about the labor unions' more active participation in the system and the fact that, even if you wanted to know what is generally regarded as political activity as defined by the labor unions, that doesn't show up, either on the so-called hard-dollar FEC reports or even on the soft-dollar labor organizational reports that go to the Department of Labor, but are simply out there with no accountability whatsoever about the dollar amounts, when or where, with a clear impact.

Maybe I ought to ask this: Does anyone on the panel think that this wouldn't have an impact on the political process?

I mean, impact is different than whether or not it is permissible. I think it is clearly a concern about the impact on the political process, and we are going to be looking at the question of accountability, as to where and how the public would be able to find out when the money was spent and in what amounts, and that is going to be one of our goals.

Again, I am sorry that we didn't have the labor unions here, or perhaps some of our more knowledgeable Democratic Members who work with labor unions fairly closely, to explain to us how it is done, but that was their choice.

Does the gentleman from Michigan have any inquiry at all?

Mr. EHLERS. Thank you, Mr. Chairman. Just an apology to the panel that I have another subcommittee meeting going on simultaneously, which has some issues I had to speak on, so I apologize for my absence.

Mr. Chairman. I would just say, during the time I was able to be present I was very impressed with the comments I heard and the knowledge and expertise displayed. I look forward to reviewing the hearing transcript. But in view of my absence, I have no further questions.

The CHAIRMAN. Thank you very much.

Obviously, the gentlewoman from Washington was just able to get back.

Ms. DUNN. I apologize to the panel. I had a Ways and Means markup, and one of my proposals was on the agenda. I have spoken with the chairman, and I expect to review your comments later on, and I am very interested in what I learned about the special consideration for labor union donations.

The CHAIRMAN. Thank you very much.

I want to thank the panel for your indulgence in waiting while we got back from the vote, and it is fairly obvious that this is an area that does need additional examination, and we will do it either as the oversight committee with the focus on the political aspect or in conjunction with the other committees of jurisdiction who would be looking at the more narrow union-worker relationship so that we can better understand how this very important institution in the system interacts, not only with its members in a political way, but with the larger political environment. Thank you very much.

Mr. DURBIN. Thank you, Mr. Chairman.

Ms. WHITAKER. Thank you.

Mr. TROY. Thank you.

Mr. LARSON. Thank you.

The CHAIRMAN. And I would ask the second panel to come forward. The second panel is going to assist us, in addition, in focusing on the sources of funds for union political activities. The panel will consist of Mr. Harry Beck, who has already been mentioned several times as the plaintiff in the case of Beck v. Communications Workers of America (CWA); Ms. Charlene Haar, Education Policy Institute; and Mr. Marshall Breger, professor at Catholic University.

Perhaps we can start with you, Mr. Beck, and then, once again, move across the panel with Ms. Haar and Mr. Breger. Any written statement you have will be made a part of the record, without objection, and you may proceed to inform us in any way you see fit in a reasonable timeframe without the lights.

**STATEMENTS OF HARRY BECK, PLAINTIFF, COMMUNICATIONS WORKERS OF AMERICA V. BECK; CHARLENE HAAR, EDUCATION POLICY INSTITUTE; AND MARSHALL BREGER, PROFESSOR, CATHOLIC UNIVERSITY, FORMER SOLICITOR [GENERAL COUNSEL], DEPARTMENT OF LABOR**

**STATEMENT OF HARRY BECK**

Mr. BECK. Mr. Chairman, I thank you and the distinguished members and staff that have asked me to attend.

To preface the statement, first of all, I am very nervous. I have never done this before. I am in an arena that I know nothing

about, so if I make mistakes, you will just have to forgive me or scold me.

I would——

The CHAIRMAN. Mr. Beck, I will tell you, we are here to learn, so we are listening.

Mr. BECK. I will take the testimony that has been submitted and I will try and meet the Chair's request at bringing it into campaign refinance. But understand, for me as a grass-roots worker, dealing with the compulsoriness of dues taken out of my paycheck against my will, against the threat of losing my job, that money which we have heard spent in the first panel, and the legality of Beck v. CWA is hard for me to separate.

So in light of that, I would like to also say that——

The CHAIRMAN. Mr. Beck, just let me tell you that you are about as close as we can come today, apparently, for someone who is involved with unions, so anything you want to tell us will assist us in understanding the process.

Mr. BECK. Thank you. I will try and be informative.

Mr. Fazio talked about congressional credibility, and when you see the kind of intimidation that he and the Democrats of this committee have tried to express by their removal of themselves from open debate is the same kind of intimidation that workers meet in the workplace when they try to get an accounting of how much union dues is spent for political activity.

But unlike Mr. Durbin and Ms. Whitaker, I am biased, because I am one of those trampled-on workers of the big labor unions who for 30 years of my 36 years with the telephone company have threatened me ad infinitum with my job, have harassed my family, and become very personal over something that I see as a political issue.

You have before you a copy of the history of Beck v. CWA, and the root causes leading to the Supreme Court case, and the ultimate decision. I wish I could tell you things are different today, but instead, unions and companies are becoming more brazen in violating the law than before I filed the suit. This unbridled insolence is bringing untold disruption to many families nationwide.

In 1988, when elements of Beck v. CWA were made into law by the United States Supreme Court, many of my fellow workers came to me for assistance as they believed that U.S. West, the largest of the Baby Bells, to be conspiring with CWA, to the detriment of the workers. Events have proven this to be true.

As a group of workers, we filed with CWA, in compliance with the law, as protestors and began asking for an accounting by the union of expenses used in the guidelines established by Beck and Hudson. We were told that Beck was an insignificant, unnecessary headache and we would ultimately be fired if we did not tender full union dues. They did everything to try and scare us into paying more than our fair share.

In the case of Barb and Gary Reed of Keno, Oregon, with him dying of cancer, went to them and tried to terrorize them into leaving the movement. Even after his death, Barb was threatened for staying with the cause.

After many attempts at receiving an accounting, protestors began submitting the sustained amount in Beck of 21 percent. We

knew and understood this percentage might not be accurate, but it was the only Court-approved guideline we had in light of the union's refusal for an accounting.

Union harassment continued, and then U.S. West began threatening us with our jobs. When our lawyer contacted the U.S. West corporate attorney to reason with and explain our position, his response was, in essence, Beck was a piece of unmitigated trash and he would not allow U.S. West to back down from malcontents.



Testimony of  
Harry Beck, Jr.

Before the  
Committee on House Oversight

March 21, 1996

Mr. Chairman

Distinguished members

I have been asked by this honorable body to come and speak about compulsory unionism and the use of union dues money in politics. I address this panel today somewhat dismayed and somewhat discouraged. I am discouraged for I believed with a United States Supreme Court decision in my favor in 1988 in Beck vs. Communications Workers of America (CWA), finally I would be vindicated for all the years of standing against the principle of forced servitude against any worker in order to feed and provide for one's family. This has not proven to be the case. Quite to the contrary, I am dismayed that in a country based on a system of laws, which when honorable men and women come together for the common good of mankind, we still have those in authority trying to stop a basic freedom which was guaranteed by the Constitution and supported by numerous court decisions like Abood and Beck and Hudson. I am also dismayed it has taken Congress so long to recognize its responsibility in authorizing and actually promoting forced unionism through flawed federal labor policy. Only the Congress of the United States can solve this problem once and for all by repealing those sections of federal law that authorize forced payment of dues to union officials.

You have before you a copy of the history of Beck vs. CWA and the root causes leading to the Supreme Court case and ultimate decision. I wish I could tell you things are different today, but instead my experience indicates that union officials and companies are becoming more brazen in violating the law than

before I filed the suit. This unbridled insolence is bringing untold disruption to many families nationwide.

In 1988 when Beck vs. CWA was upheld by the Supreme Court, many of my fellow workers came to me for assistance as they believed US West, the largest of the Baby Bells, was conspiring with CWA to the detriment of the worker.

As a group, workers filed as dues objectors and asked for an accounting by the union of expenses, using the guidelines established in Beck and Hudson. We were told that Beck was an insignificant, unnecessary headache and we would ultimately be fired if we did not tender full union dues. They did everything to try to scare us into paying more than our so-called "fair share."

And in the case of Barb and Gary Reed of Keno, Oregon, while he was dying of cancer, went to them and tried to terrorize them into leaving the movement. Even after Gary's death, Barb has been threatened for staying with the cause. After many attempts at receiving an accounting, protesters began submitting the amount sustained in the Beck decision of 21%. Union harassment continued and then US West began threatening our jobs. When our lawyer contacted US West's corporate attorney to reason with him and explain our position, his response was in essence, Beck was a piece of unmitigated trash and he would never allow US West to back down from malcontents. It took a threatened lawsuit against CWA and US West in federal court before the union lawyer worked out an agreement protecting protesters against firing until a relevant case pending in Washington, D.C., was settled. Many

protesters -- out of fear of losing their jobs -- paid the full union dues.

CWA would then rebate an amount the next year even though courts have held this is a forced loan of money without interest being paid to the worker. Again, only after threats of exposure to more litigation did the union acquiesce.

To this day, as my testimony indicates, independent-minded workers have the forced-dues deck stacked against them. Even with the Beck decision, workers who want to exercise their rights to avoid paying for Big Labor's political agenda must first resign their union membership. You may think that this is a reasonable remedy but it is not. Once you resign your membership you can no longer participate in union activities. You can't vote in union elections and you can't vote on the contract which dictates the terms and condition of your employment.

In addition to these considerations, even under Beck, a worker who wants to stop supporting the political activities of the union must go to the same union for an accounting of the dues money that is being used for purposes other than the Beck costs. "Beck rights" are not self-enforcing. If the worker doesn't believe this accounting to be accurate, he must now move to the NLRB. We all know what happens to Beck cases at the Board. It took a case filed against the IAM more than 10 years to be decided by the Board. When, and if, the Board decides the issue and the employee still objects he or she can now enter federal court and pay the legal fees associated with that. All this activity and effort at a cost of untold thousands of dollars to



fight for \$300 to \$400 a year.

Mr. Chairman, you can see that the individual employee is at a significant disadvantage in this scenario. And yet the union bosses continue to use money for things unrelated to their legitimate purposes and the employee is left to fend for himself.

If this were the only case of the company-union relationship conspiring against the worker, or if union officials refrained from using dues money for politics, then maybe a National Right to Work Law would not be necessary. But, Mr. Chairman, there are many stories just like mine across this land: For example, Pat Thomas from your own home state was fired by Rockwell International who has a 50 year relationship with the UAW (United Auto Workers). Before the ink was dry on the Supreme Court decision in Beck, Pat requested to get out of the union and the right to become a "financial core member." UAW thugs began a series of harassing tactics leading to destruction of Pat's vehicle, and threatening calls to his wife. Pat had to notify Chief of Police Darryl Gates of Los Angeles. Through all this, Rockwell, not wanting to lose its cozy relationship with the UAW, bowed to union pressure and dismissed Pat. The UAW attorney laughed at Pat and told him, "the Beck decision is just a big yawn."

Pat sacrificed his job for a principle. This never should have happened. Even my testifying today may ultimately end in my dismissal. Ms. Sue Pesha, District 7 V.P. of CWA, at a union picnic in Eugene, Oregon, last summer, when queried "about that guy Beck," told the members attending that she and the

International and the company "would do whatever it takes to have his job." So, with what I am telling you today, I would not be surprised to see efforts increase to have me fired. If US West and CWA finally succeed, it would be worth it if a National Right to Work Law comes from these hearings. For 30 years now I have fought this fight and will continue to do so with my last breath.

Humbly, I suggest with the blatant disregard for the law already evident with companies and unions refusing to adhere to Supreme Court decisions, any Right to Work law must carry severe penalties.

As the Committee has heard, nothing much has changed since Beck. All the effort and money spent to try to get the system to protect the worker has been lost by the abuse of power by corporate and union officials who believe themselves above the law. Do not allow this attitude to go unchallenged. Please help defend us when those we pay hard-earned dollars to, for their own selfish desires, refuse. I urge you to take a giant step today. I urge you to end the federally-imposed system that forces workers to pay union dues just to get or keep a job. Then and only then will the workers of America be free.

I thank the Committee for its time and trust you will do the right and honorable thing in defending the working class of America. We need your help.

Respectfully submitted,

Harry E. Beck, Jr.

**BECK vs. CWA**

*Final Decision June 15, 1988*

## FORWARD

It seems to me we are a people of absolutes. Either Democratic or Republican, Christian or heathen, fat needing to diet or slim needing to put on weight, educated or uneducated, beautiful or ugly and in my case either for unionism or anti-union. We either want reduced government or blame government when something goes wrong and we perceive we have had our civil rights stepped upon and government must do more to protect ME. We go to a doctor to repair an imperfect body and then want to sue his pants off when he either has no answer to our problems, or just in his human abilities (inability's) makes a mistake and causes us discomfort.

We want the airlines deregulated so competition can thrive and bring us lower fares, but we scream for tariffs to be placed on Japan when free trade puts pressure upon OUR industry, and in the long run will cause us higher prices.

There seems to be no credence given to the eclectic thinker who sees a problem and searches many arenas for a solution. "Y'er either fer us or a'gin us." In my case against Communications Workers of America, I saw a problem of arrogance and if you will, a "taxation without representation" being applied to most Bell Telephone workers. I tried, unsuccessfully, to get change within the system and was thwarted at every juncture, not by the rank and file, but by leadership that refused to address the issues. As a last resort, I turned to the National Right to Work Committee and Legal Defense Foundation for assistance. The courts became our only avenue for justice.

In the 30 years I have been fighting this cause, I have been misrepresented as totally anti-labor, a communist, only after a big bucks settlement and many other things best described under the heading, "a parasite to society". It needs to be said up front neither I nor any of my family received ANY cash settlement as a result of this suit. And further more, even if the union were to try and offer us some settlement, no amount of money can repay the dirt and harassment my wife and children faced in the privacy of our own home as a result of some union hooligan's. The only adequate repayment was made in June of 1988 when the United State Supreme Court finding 5-3 upheld my cause.

In the years since this case began, I have been on nationwide and local television shows. I have been on talk radio in Detroit Michigan. I have been interviewed by hundreds of newspaper and media journalists. While not all agreed with my position, without exception two common elements prevailed. First, my case was totally misrepresented by the unions and when I provided documentation proving my statements, media representatives clearly stated they could understand my position and were appalled at the unions actions. Secondly, EVERY media interviewer related similar injustices they were either facing themselves or knew were going on within some union with which they were familiar. Many have contacted me since for advice as on how Beck vs. CWA could be used to assist them. Today, there are 300 plus cases before the NLRB (which they refuse to make a decision on) from California to Boston and Washington to Florida, where the rank and file of powerful self-serving unions are regaining control of their unions by asserting their rights regained under this suit. That's my repayment.

The winning of the suit is not the end. Now we must get information to the rank and file and let them know they have a way to insist unions be responsive to their needs. For we cannot expect unions to report to the worker their newly restored rights. And while the findings of The Court makes implementation of the "fairness" element of the Taft-Hartly Act easier, we give little hope of big business bucking big labor to inform the worker of his/her rights under Beck. Therefore plans for a major news conference on June 21, 1989 in Sacramento California are set to begin informing indentured workers of how to become freemen again. The work goes on.....



## ACKNOWLEDGMENTS

I wish to acknowledge Reed Larson and The National Right to Work Committee. They remain the only beacon of hope for the working man against the unbridled power structure of unions today. Needless to say without them and the rank and file worker who donates to their work, I would not have prevailed. To Hugh Rielly, who handled most of the phases of this case over the years, goes sincere thanks. Edward Vieira who represented the respondents before the Supreme Court must also be recognized for the convincing arguments of law placed before the Court. His dissertation and rebuttals to the union lawyers show he, not the union, really represented the rights of the worker. And to all the secretaries, clerks, typists, consulting lawyers, and promotional people who got this case in the media, goes my sincere thanks. It can truly be said this was a team effort. Thank You All.

In 1960, at the ripe old age of 17, I began my career with the Bell System which has lasted now for some 34 years. As a youth just entering the adult world of self survival, I was presented with an insurance policy opportunity protecting me against unfair bosses that would pick on me, and attempts to unfairly pay me and reduce my benefits package and insure my work place remained a safe place. Oh yes, and once a month we had a blast of a beer party with all you could drink - free -. That's the way unionism was presented to me. Now while I was happy with the pay and really cared less about benefits and would take any boss harassing me behind the building and let my knuckles represent me, the free beer party once a month really got my attention. So I became a member of the Communications Workers of America, local 2350, Washington DC and for \$7.00 a month look at all the benefits I received. Wow...

For a year, I attended union meetings and even became a recruiter and assistant shop steward. Then the Cuban missile crisis forced me to make a couple of decision. Stay with AT&T and take a chance on being drafted or enlist in the Air Force and get electronics training which would help me in my job. Advice from my manager led me to joining the Air Force. Three years and nine month later, I rejoined the real world.

I now was an old hand at 25. Veteran, experienced, trained, married and a father. Now all of a sudden pay was important, benefits very important and with the experience of 4 years of seeing how poorly my knuckles represented me with people who harassed me, protection too was very important. So I immediately rejoined CWA and became an avid union man.. I traded my M-1 carbine for a picket sign and parades for picket lines.

A little history is needed here. CWA is a union started by one time Bell System under managers and bosses. It's structure was predominantly in five major cities; New York, Philadelphia, Washington DC Detroit and Chicago. Since then a couple of others were added Denver, Atlanta and Pittsburgh. There were a few strong HUB cities but for the most part the cities mentioned were the backbone which always controlled the national elections. In order to control the rank and file, CWA refused to allow any large locals to be formed outside these major cities. For example, I worked in a microwave complex of 25 men 30 mile south of Washington DC and was assigned to the Baltimore local some 60 mile away. We did petition to be moved to the Washington DC local for distance sake and that was granted, but forming our own local was vetoed. As late as 1984, after my move to Portland, I found the same trend existing. Boise Idaho membership of CWA was a part of the Denver local.

To understand why this was (is) done must be viewed in light of contract settlements and in light of where the major work force population resided. CWA did not represent all telephone company employees at this time. Local companies (now called BOC's) often had different representation and the operators almost always refuse CWA representation. The largest remaining work force of AT&T employees were what was called 'outlying' meaning they worked mostly suburban areas. The needs of these outlying forces were generally different than the city workers and most generally disagreed with the radical element of the union hierarchy. Therefore, if we had been allowed to form our own locals, we could have swayed national elections. So at contract time each of these cities received exceptional pay increases, while 'outlying' workers doing the same work received many dollars less. By bringing us under the control of a big city local and dispersing our voting power, we always lost attempts at the local level for changes in pay structure called 'upgrading', because the majority of the local members were big city members who were happy with the pay structure.

In 1966, after one such attempt at getting pay parity, the men of our office decided we needed a representative on the locals executive committee in order to have a minor voice in decisions and to get a better idea of what was going on within the organization. We attended the election meeting in force and

could have elected our men to EVERY position of the local. You see, it was generally understood by the city local members, elections were cut and dried before hand so there was no need to attend the meetings. In an attempt to keep control of the local within the city membership, the union officials called off the election with assurances we would be notified of the next election night. Three weeks later we were notified who OUR new officers were. They had been elected at a secret union meeting held the night after the regularly scheduled meeting which we had attended.

I then formed a coalition of AT&T, Chesapeake and Potomac (local company) and Western Electric workers residing in the outlying areas of Maryland's western and eastern shores. We organized and planned to form our own local. We contacted the NLRB and was informed we needed to go through CWA's International organization as we would be under their certification. We made appeal to CWA for permission to form. The first request was lost. CWA never responded to the second request and when we hand carried the third request to the International office, we were informed by a secretary it was no use to file because the decision had already been made to deny our application. A memo to that affect was shown to the three of us. It might be interesting to note here the other two men who saw the memo are now dead. One supposedly committed suicide and the other died in an automobile accident. The secretary has married and I haven't heard from her since. All this happened within 3 months of our visiting the International office. An appeal was made to the NLRB, but again we were denied.

After the death of my two co-organizers, many of the workers withdrew from our attempts to organize. Some confided they had been contacted by union officials and ASKED to withdraw and others just said they were too scared to continue. As a result the movement died. But I decided right then to quit the union.

The union tried several forms of intimidation to keep me from quitting and beginning a chain of withdrawals. One of the most underhanded was what was called 'the escape clause'. All of CWA's contract prior to 1967 had an escape clause which was slated for 30 days prior to the final date of the existing contract. In order to quit the union, one must file within this 30 day period requesting to be removed from union roles. To evade this date, every contract bargaining from 1950 forward was always *extended* beyond the contract expirations date (whenever a delay in contract settlement existed) and with extensions, the contract would be carried forward in tact. Then a settlement would be reached and finalized and the 30 day escape period was over. When I threatened to take them to court over this they withdrew the escape clause from the final printing of the 1967 contract and allowed me out of the union after previously stating I would have to wait for the 1970 contract before I could exit the union.

Union abuse and flaunting of power continued. Some 1000 members up and down the eastern seaboard quit the union as a result of the publicizing my success. This angered CWA and it's leadership. All of us faced varying degrees of harassment and one Dale Richardson, even had his house burned down while he and his family were asleep. Union officials paid dearly in a monetary settlement as well as some serving jail time.

In 1970, CWA struck AT&T supposedly for wages. Joe Berner, then National president, brought us back to work for \$.50 less per hour than what was initially offered by AT&T, but the union received a 'modified agency fee' contract. Under this contract there is a clause called 'Maintenance of Dues' which stated all new hired employees were given 30 days in which to join the union, or they must tender an amount equal to the union dues to the union, or quit the company or be fired. The union could not get the company to grandfather this clause. So once again the underhandedness of CWA was working its way back into controlling us while not representing us.

In 1974, CWA again struck AT&T. But this time for a reduced money settlement the union received 'Full Agency Shop'. Now all workers were forced to either join or tender an amount equal to union dues to the union. This was the final straw and while I had been considered to be a rebel without a cause, many now saw my cause and joined me.

In 1967, I began searching for ways to eliminate or at the very least reduce, the control CWA had over its workers. I spent hours in law libraries searching the Maryland Annotated Code in hopes of finding a law to stop this madness. A professor friend of mine informed me about an organization founded in 1956 to help workers fight union injustices. The National Right to Work Committee and Legal Defense Foundation (NRTWC) is a nonprofit organization drawing private donations from rank and file workers and foundations who are concerned about the unchecked power unions brandish. The NRTWC is blessed with a battery of legal minds second to none in the nation. They come from all facets of the legal profession including the Justice Department, the Department of Labor and experience as counsels for labor unions themselves. One afternoon in July of 1967, Duke Cadwallier, one of the founders of the Committee, met with myself and John Hurley, a co-complainant in *Beck* and listened to our story. Somewhat unbelieving, he decided the Committee would look further into the problem.

After several unsuccessful attempts to bring legal action against CWA, in June of 1976, we finally filed *Beck vs. CWA*. During our research, we found CWA was supporting political candidates with dues dollars. Upon receiving documents from within CWA headquarters itself, we discovered that while CWA purported giving only PAC moneys to candidates through their Congress on Political Education (COPE), they were indeed spending dues dollars also. (Ask yourself why you haven't heard anything about COPE over the last 15 years. Could it be because they no longer need an underhanded way to spend dues dollars and buy politicians and judges?) When confronted they arrogantly acknowledged the fact and in essence dared us to try and do something about it. The basis for our suit was that according to the National Labor Relations Act of 1947, dues payments were to be used for only three purposes; Bargaining, Grievance Handling and Arbitration. Therefore as these 'agency fee' payments were being taken from nonunion members, the law said the union could not spend these dollars on political activity supported by the union. They were in essence forcing us to support with my dues dollars political candidates which went against my political and ethical view point. I was being forced to vote against my own dollars.



In 1980, after many underhanded attempts by all of organized labor to keep this suit from coming to trial, District Judge James R. Miller found in my favor. He also found upon forced inspection of CWA's books, indeed 81% of all union dues was being spent for non bargaining activities. After impassioned pleas of 'foul' by CWA, AFL/CIO, Teamsters, UAW, IBEW, the unions attempt to establish a 'New Accounting System' and after compassionately allowing some questionable expenditures to be considered as union expenses, the judge finally agreed with the union that 81% was indeed too much and the figure was actually only 79%. We hand won but this was only the first step.

In November of 1984, CWA appealed the case to United States Court of Appeal for the 4<sup>th</sup> District. By in large the case was upheld although some elements were remanded to the lower court for further action. But after all was said and done, the Court of Appeals said that it was indeed illegal to spend 'agency fee' dollars for anything other than 'core administration costs' and 79% was an accurate picture of the misspent amount by CWA. CWA immediately appealed to the United States Supreme Court even though some of it's brother unions believed it unwise to push this case to the Supreme Court for a loss their would be disastrous for all unions because a landmark case of this magnitude would provide a tool which could ultimately be used against all unions.

On January 11, 1988 the United States Supreme Court heard arguments from attorneys representing both sides. By June of 1988 the Supreme had spoken. In a 5-3 decision (because the 9<sup>th</sup> judge had not seated on the bench when the case was heard) found in total to my claims. They further supported the percentages and 20 long years of fighting one of the most powerful unions in America had come to an end...

The CHAIRMAN. Thank you very much, Mr. Beck.

Just for the record, I did not make a point of it earlier, but my father was a lifetime member of the AFL-CIO 582 Plumber, Pipefitters, so some people may make a false assumptions about where some of us come from.

Ms. Haar, the time is yours. Your written testimony will be made a part of the record, and you do need to use a microphone.

### STATEMENT OF CHARLENE HAAR

Ms. HAAR. Thank you. Good morning. Actually, it is afternoon, already, isn't it?

I submit to you, Mr. Chairman and Mr. Vice Chairman, that my testimony, I believe, is in answer to some of the questions that were raised today about the difficulty in determining chargeable and nonchargeable expenses for political activities.

Although I am no longer a classroom teacher, I continue to be a member of the National Education Association. My experiences as president of my local association and member of the union government relations committee while teaching at Madison High School in South Dakota were extremely helpful as I authored a recent book, "The NEA and AFT: Teacher Unions in Power and Politics." Now, as president of the Education Policy Institute, my research and data collection continue.

You have asked me to discuss a role of non-Federal funds in influencing the outcome of elections. I begin with a question to each of you on the panel and for those observing these proceedings: When you go back to your districts, what do you think of when you consider the political role of the teacher unions?

Here is how political consultant Bob Nelson lauded the California Teachers Association at its December 1993 council meeting. He is referring to successful efforts of the NEA's largest affiliate in defeating the 1993 State voucher initiative. He proclaimed to the CTA audience, and I quote: "Your volunteer phone bank program for the 'NO on 174 Campaign' was the largest in state history and in the history of American politics. You and your colleagues completed 943,419 telephone calls and did that with 24,579 volunteers \* \* \* Just one day—the Monday before the election—you and your colleagues completed 101,000 telephone calls."

Of course, members of the American Federation of Teachers, a part of the AFL-CIO, engage in similar political activities. In its February 5, 1996, issue of AFL-CIO News, the headline is revealing: "Labor boosts Wyden to win in Oregon vote. Unparalleled campaign provides model for 1996." The details are similar to election stories in many jurisdictions:

"The union tracked members who had voted by regularly checking records at local elections offices, then concentrated their phone calls and mailings on those who had not yet mailed in their ballots.

"The staff and volunteers worked intensely to boost voter turnout, Sweeney said, making more than 230,000 phone calls and sending more than 350,000 pieces of information and literature to every union member in Oregon. More than 50 affiliates and locals mailed thousands of additional pieces to their members.

"In addition, Frontlash, the AFL-CIO's youth arm, and the National Council of Senior Citizens sent staff to help mobilize younger and older voters."

Not surprisingly, former 8-term Congressman Ron Wyden is now Oregon's junior Senator and may well become a member of the Senate Labor and Human Resources Committee.

Publicity supporting endorsed candidates in union publications, manpower for demonstrations, phone banks, mailings, voter registration, absentee ballot, and "get out the vote" programs, advertisements, polling, consulting; these are typical of the kinds of activities engaged in by the NEA and AFT.

These political activities are used in every election cycle and at all levels, from local school board races, to State races, to national elections. The election or defeat of candidates and the success or defeat of ballot initiatives are often determined by the teacher unions.

Indeed, NEA/AFT union leaders and members know their existence depends upon successfully opposing all efforts to diminish their monopoly and electing supportive public officials. As we all know, in the government—(public)—schools, government—(school board)—is the employer, and government officials, (State legislators, Members of Congress,) also establish the ground rules for bargaining with those employers.

It should come as no surprise that teacher unions don't finance and coordinate the political activities segment of their activities separately. By the admission of teacher unionists, it is mixed in with virtually everything they do.

Carolyn Doggett, California Teachers Association executive director, summed up the usefulness of this integrated approach in a January speech. She said "CTA was created—its main, original purpose was to 'get into politics,' and we have been that way since day one. We barely put 6 percent into [professional development] and other programs that fall outside traditional union concerns and functions."

If we are seeking to quantify the resources that the teacher unions spend on political activities, we cannot take just a percentage, however substantial, of any discrete resource that is spent on political activities. We must sum the cost of the resources that are, at any time, deployed for political purposes.

The cost of teacher union political activities is the cost of the entire infrastructure that coordinates these activities. When teachers gather together to discuss political objectives, it is irrelevant that they also discussed the latest contract or the summer golf outing. The political purposes of the organization are met by having the meeting.

Similarly, when the NEA created its "wide area network," it makes no difference if the network is used to send lesson plans simultaneously across the country in a split second. The network serves as the information superhighway for the union's political activities.

Teacher union political activities are funded from what appears to be an almost endless stream of revenues. Exhibit 1, which is on the board, shows the combined NEA-AFT revenues of nearly \$2.3 billion during the 1993-94 election cycle. This does not include

more than \$37 million expended by the NEA/AFT from their local, state, and national political action committees, or PACs, that we have been talking about.

The NEA Uniserv program may be the most obvious use of non-PAC resources for political purposes. Through the Uniserv program, the NEA hires 1,500 NEA-trained political operatives whose individual compensation often exceeds \$100,000 annually.

In addition to their multifaceted roles as professional negotiators who negotiate collective bargaining agreements with school boards, Uniserv directors are in unique positions to coordinate the political activities of the teachers and, as needed, dozens of coalition groups.

Political coalitions often include the National Congress of Parents and Teachers, otherwise known as the PTA, the National Council of Senior Citizens, ethnic coalitions, other labor unions, and other interest groups sympathetic to the Democratic Party.

Several other examples of political activities funded from NEA/AFT revenues include: soft money contributions, inaugural committee loans, incentives and stipends for teacher union delegates and alternates to national nominating conventions, substitute teachers while the union member attends political training sessions, sponsoring congressional contact teams, and of course the administration of PACs, which talked about earlier today in several of the other testimonies.

Another issue that was discussed earlier today, is the use of meetings, newsletters, communications and other coordinating activities.

Our final exhibit, 3, shows that during the 1993-94 election cycle the teacher unions collected approximately \$2.3 billion in dues and non-dues revenues, which I indicated before. This is more than 60 times what they collected and spent in PAC funds during that same period.

However substantial, NEA/AFT PAC funds do not pay for mobilizing 2.5 million NEA/AFT unionized teachers and a half-million health- and school-related personnel. This is what the NEA/AFT \$2.275 billion infrastructure achieves. By ignoring this crucial fact, we will not be able to adequately address the issue of NEA/AFT influence on election outcomes.

Before I answer your questions, I request that the materials in the list of references be included in the record and/or posted on the World Wide Web; however, if the cost of including the complete materials is too great, that excerpts be included.

Thank you very much for this opportunity.

The CHAIRMAN. Thank you, and without objection. We are interested in getting a whole lot of stuff up on the World Wide Web.

[The prepared statement of Ms. Haar follows:]



# **Education Policy Institute**

**Myron Lieberman, Chairman • Charlene K. Haar, President**

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## **FAX MESSAGE**

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**Date: March 21, 1996**

**From: Charlene K. Haar** *CH*

Today in my testimony, I said about a dozen state teacher unions file Form LM-2. Several months ago, we retrieved this data from the latest directory of LM-2 filers at the Department of Labor. The directory was several years old and we were told it is not being updated, available or in print - evidently the victim of budget cuts. The directory showed that 10 NEA state affiliates, 21 AFT state affiliates, and the two national organizations file LM-2s.

In addition, there were fewer than 200 other NEA/AFT affiliate filers. For the most part, these locals represent employees of higher education, NEA/AFT staff, hospitals and health facilities, private schools, and early childhood programs. Each represents some members employed in the private sector.

Perhaps the record could/should include some or all of this information.

Thanks again for the opportunity to participate.

**Educational research and policy analysis  
 from a public choice and pro-market perspective**

Testimony of  
Charlene K. Haar, President  
Education Policy Institute

***Committee on House Oversight,  
Sources of Funding for Union  
Political Activities  
Thursday, March 21, 10 am.  
Longworth 1310***

(Revised)

Sources of Funding for Union Political Activities  
 Committee on House Oversight  
 Longworth House Office Building - Room 1310  
 Bill Thomas, Chairman

Thursday, March 21, 1996, 10:00 a.m.

Testimony of Charlene K. Haar, President  
 Education Policy Institute  
 4401-A Connecticut Avenue, Box 294  
 Washington, DC 20008

Hearing Focus: The role of "non-federal" funds, i.e., those that fall outside the Federal Election Commission disclosure requirements, in influencing the outcome of elections.

Good morning. My name is Charlene Haar. Although I am no longer a classroom teacher, I continue to be a member of the National Education Association. My experiences as president of my local association and member of the union government relations committee while teaching at Madison High School in South Dakota were extremely helpful as I co-authored The NEA and AFT: Teacher Unions in Power and Politics (Pro>Active Publications, 1994). Now, as president of the Education Policy Institute, my research and data collection continue.

You have asked me to discuss the role of non-federal funds in influencing the outcome of elections. I begin with a question for each of you on the panel and for those observing these proceedings:

When you go back to your districts, what do you think of when you consider the political role of the teacher unions?

Here's how political consultant Bob Nelson lauded the California Teachers Association at its December 1993 council meeting. He is referring to successful

efforts of the NEA's largest affiliate in defeating the 1993 state voucher initiative. He proclaimed to the CTA audience:

"Your volunteer phone bank program for the 'NO on 174 Campaign' was the largest in state history and in the history of American politics. You and your colleagues completed 943,419 telephone calls and did that with 24,579 volunteers...Just one day -- the Monday before the election -- you and your colleagues completed 101,000 telephone calls."

Of course, members of the American Federation of Teachers, a part of the AFL-CIO, engage in similar political activities. In its February 5, 1996 issue of *AFL-CIO News*, the headline is revealing: "Labor boosts Wyden to win in Oregon vote, Unparalleled campaign provides model for 1996. The details are similar to election stories in many jurisdictions:

..."The unions tracked members who had voted by regularly checking records at local elections offices, then concentrated their phone calls and mailings on those who had not yet mailed in their ballots.

"The staff and volunteers worked intensely to boost voter turnout, Sweeney said, making more than 230,000 phone calls and sending more than 350,000 pieces of informational literature to every union member in Oregon. More than 50 affiliates and locals mailed thousands of additional pieces to their members...

"In addition, Frontlash, the AFL-CIO's youth arm, and the National Council of Senior Citizens sent staff to help mobilize younger and older voters."



Not surprisingly, former 8-term Congressman Ron Wyden is now Oregon's junior Senator and may well become a member of the Senate Labor and Human Resources Committee.

Publicity supporting endorsed candidates in union publications, manpower for demonstrations, phone banks, mailings, voter registration, absentee ballot and get out the vote programs, advertisements, polling, consulting; these are typical of the kinds of activities engaged in by the NEA and AFT. These political activities are used in every election cycle, from local school board races, to state races, to national elections. The election or defeat of candidates and the success or defeat of ballot initiatives are often determined by the teacher unions.

Indeed, NEA/AFT union leaders and members know their existence depends upon successfully opposing all efforts to diminish their monopoly, and electing supportive public officials. As we all know, in the government (public) schools, government (school board) is the employer, and government officials (state legislators, Members of Congress) also establish the ground rules for bargaining with those employers.

It should come as no surprise that teacher unions don't finance and coordinate the political activities segment of their activities separately. By the admission of teacher unionists, it's mixed in with virtually everything they do.

Carolyn Doggett, CTA Executive Director summed up the usefulness of this integrated approach in a January speech. She said "CTA was created -- its main, original purpose -- was to 'get into politics' -- and we have been that way since day

on ~."

...We put barely 6 percent into [professional development] and other programs that fall outside traditional union concerns and functions."

If we're seeking to quantify the resources that the teacher unions spend on political activities, we can't just take a percentage -- however substantial -- of any discrete resource that is spent on political activities. We must sum the cost of the resources that are, at any time, deployed for political purposes. The cost of teacher union political activities is the cost of the infrastructure that coordinates these activities. When teachers gather together to discuss political objectives, it is irrelevant that they also discussed the latest contract or the summer golf outing. The political purposes of the organization are met by having the meeting. Similarly, when the NEA created its 'wide area network' it makes no difference if the network is used to send lesson plans simultaneously across the country in a split second. The network serves as the information superhighway for the union's political activities.

Teacher union political activities are funded from what appears to be an almost endless stream of revenues. Exhibit 1 shows the combined NEA/AFT revenues of nearly \$2.3 billion during the 1993-94 election cycle. This does not include more than \$37 million expended by the NEA/AFT from their local, state, and national political action committees. (Exhibit 2)

The NEA UniServ program may be the most obvious use of non-PAC resources for political purposes. Through the UniServ program, the NEA hires 1,500 NEA-trained political operatives, whose individual compensation often exceeds

\$170,000. In addition to their multifaceted roles - as professional negotiators who negotiate collective bargaining agreements with school boards - UniServ directors are in unique positions to coordinate the political activities of the teachers, and as needed, dozens of coalition groups. Political coalitions often include the National Congress of Parents and Teachers (PTA), the National Council of Senior Citizens, ethnic coalitions, other labor unions, and other interest groups sympathetic to the Democratic party.

Several other examples of political activities funded from NEA/AFT revenues include:

- Soft money contributions
- Inaugural Committee "loans"
- Incentives and stipends for teacher union delegates and alternates to national nominating conventions
- Substitute teachers while the union member attends political training sessions (Fairfax County Federation of Teachers Memo, May 1995)
- Congressional Contact Teams...and
- PAC administration - NEA advises its affiliates: "For maximum political effectiveness, use PAC funds solely for making contributions to candidates. Pay PAC administrative costs from the Association budget, if possible; but check the state laws first." (NEA Series in Practical Politics - How to Set Up and Operate a Local Association Political Action Program, March 1985, p.6)
- Meetings, newsletters and other coordinating activities

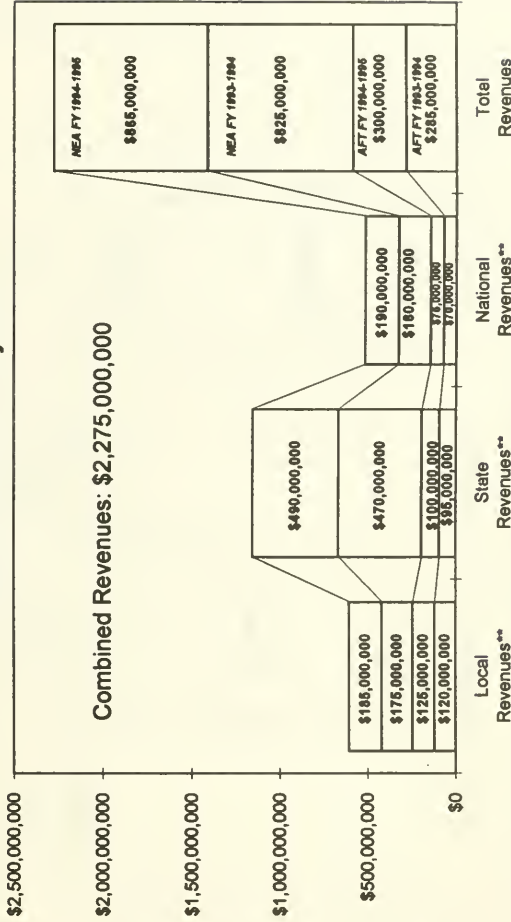
Exhibit 3 shows that during the 1993-1994 election cycle, the teacher unions collected approximately \$2.3 billion in dues and non-dues revenues. This is more than 60 times what they collected and spent in PAC funds during the same period. However substantial, NEA/AFT PAC funds do not pay for mobilizing 2.5 million NEA/AFT unionized teachers and a half million health, and school related personnel. That is what the NEA/AFT \$2.275 billion infrastructure achieves. By ignoring this crucial fact, we will not be able to adequately address the issue of NEA/AFT influence on election outcomes.

Before I answer your questions, I request that the materials in the list of references be included in the record and/or posted on the world wide web; if the cost of including the complete materials is too great, that excerpts be included

Thank you very much for this opportunity.



# Exhibit 1 Estimated NEA/AFT Revenues\* 1993-1994 Election Cycle



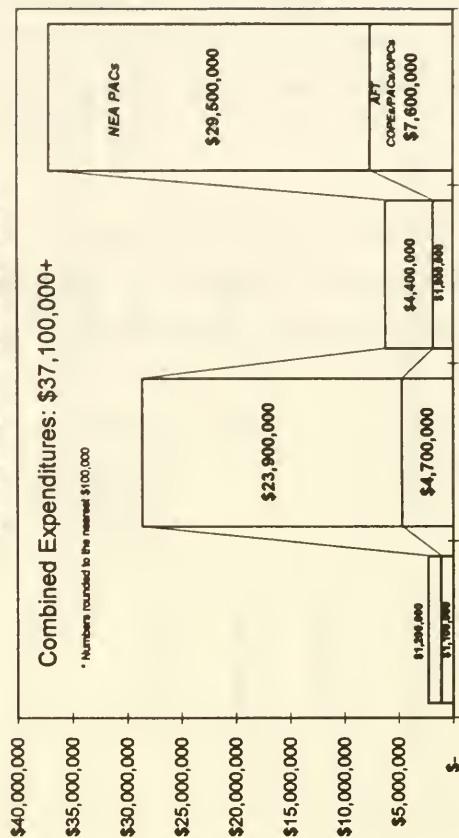
\*Total gross receipts. Non-dues income (interest, rents, sales, fees, etc.) represents approximately 6 percent of the total.  
 \*\* Local, state, national figures rounded to the nearest \$5 million.  
 Sources: Calculated on the basis of information from: American Federation of Teachers, *Officers Directory* (1991, 1995); American Federation of Teachers, *Keeping the Records Straight: A Guide for Treasurers and Financial Officers of the American Federation of Teachers* (n.d.); American Federation of Teachers, *The 1990-1992 Report of the Officers of the American Federation of Teachers* (1992); California Teachers Association, *Form 900a: Form UM-2a; National Education Association, NEA Handbook* (1992-1993, 1993-1994, 1994-1995); National Education Association, *Financial Reports (FYs 1992-1993, 1993-1994, 1995-1996); National Education Association, Strategic Plan and Budget* (1992-1993, 1993-1994, 1993-1996); National Center for Education Statistics, *Common Core of Data 1992-1993* (1995).

March 31, 1994

## Exhibit 2 PAC Expenditures of NEA/AFT

### 1993-1994 Election Cycle

Does not include all PACs. State disclosure laws vary.



Numbers rounded to the nearest \$100,000.

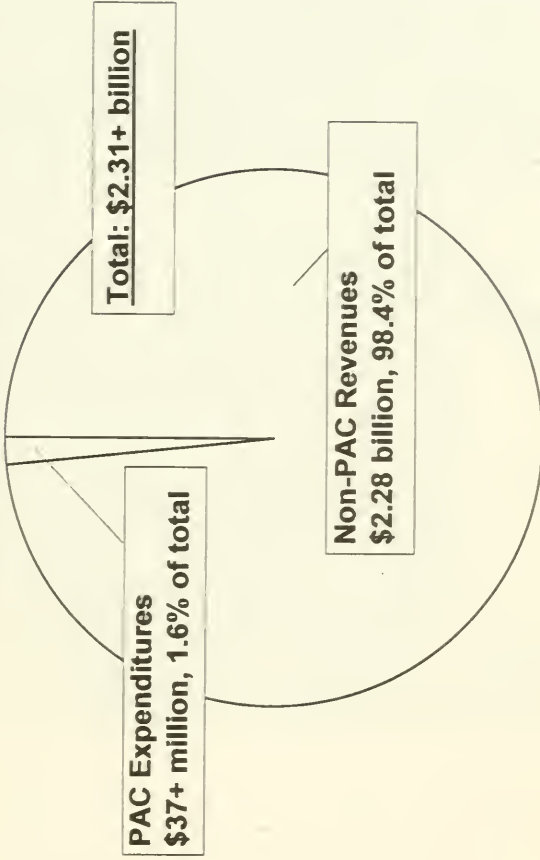
\* Includes expenditures from 42 NEA local PACs in 1993, 137 in 1994, 12 in 1993-1994; 21 AFT local PACs in 1993, 25 in 1994, 1 in 1993-1994.

\*\* Includes expenditures from 25 NEA state PACs in 1993, 43 in 1994, 3 for 1993-1994; 6 AFT state PACs in 1993, 10 in 1994.

\*\*\* Includes NEA/PAC and AFT/COPE only.

Sources: Alliance Alliance of Business and Industry; Federal Election Commission; state campaign finance offices.

**Exhibit 3**  
**Local/State/National NEA/AFT**  
**Combined Resources**  
**1993-1994 Election Cycle**



List of references, March 21, 1996, testimony of Charlene K. Haar:

NEA Series in Practical Politics

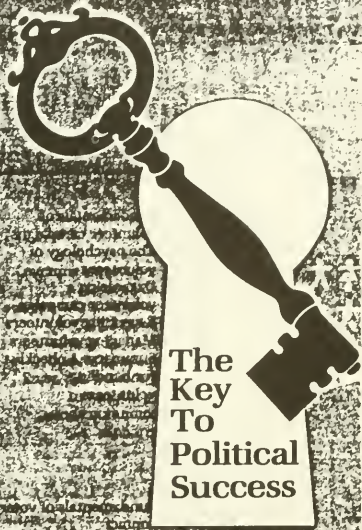
- You and Politics: A Workbook Introduction
- How to Set Up and Operate a Local Association Political Action Program
- How to Endorse Candidates
- How to Participate in Party Politics
- How to Conduct Opinion Polls
- How to Conduct The NEA Congressional Contact Team Program
- How to Raise Money for NEA-PAC: Education's Defense Fund

American Federation of Teachers

Your Guide to Political Power, June 1990

# NEA Series in PRACTICAL POLITICS

## *A Political Action Training Program*



To obtain materials for your local Association, contact your local UNISERV staff, state Association, or the NEA regional office in your area.

NEA  
1201 16th Street, N.W.  
Washington, D.C. 20036

**nea**

National Education Association  
Government Relations  
1201 16th Street, N.W.  
Washington, D.C. 20036



# NEA Series in **PRACTICAL POLITICS** *A Political Action Training Program*

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From the court house to the White House, from the city council to the highest counsels of federal government, elected officials are making the decisions that affect our public schools and the men and women who work in them.

There is only one way to make sure the dream of universally excellent public education becomes a reality. Those of us who have dedicated our lives to America's schools must become effectively involved in the political process. We owe it to ourselves, to our students, to our communities and to our nation.

## **People Power**

To be successful, campaigns need more than just money. Highly trained and deeply committed volunteers are an important element of any winning campaign.

People power can make the critical difference. And the most effective people power comes from volunteers who know how to organize campaigns and how to reach the voters with the candidate's message.

For those of us in NEA, our first priority is reaching other members.

## **Political Education**

NEA members have long realized that the key to winning excellence in education—including winning better salaries and working conditions—is to elect friends of education to public office.

That's why our Association has developed a unique program for political education that aims to provide members with the skills they need to be successful

in every political arena, whether it be a race for the school board or a race for the White House. And with those same skills, NEA members can work to achieve our legislative objectives at every level of government.

Our political education program also aims to increase membership involvement and to strengthen our Association at all levels.

The centerpiece of our political education program is the *NEA Series in Practical Politics*, designed for use in membership training workshops conducted by Association leaders and staff.

The *Series* covers everything from setting up a political program to preparing print communications, from raising money to endorsing candidates. By using the *Series*, local Associations can help members become more effective in specific areas or learn the whole spectrum of necessary political campaign skills. And each training book includes detailed survey sheets that ask members for their suggestions on how to improve or expand NEA's political training materials.

## **You're the Key**

Trained volunteers are the key to political success and you—local Association leaders and staff—are the key to training Association activists.

The *NEA Series in Practical Politics* has been designed to help you in your training programs. Your local UniServ staff person or your state Association Government Relations and Political Affairs office can be of invaluable assistance in helping you use the materials.

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***Political Success Begins with You ... and Training!***

# NEA Series in PRACTICAL POL

## A Political Action Training I

A suggested three-group sequence of the series is displayed below

### 2

NEA's political education program is designed to provide training in sequence or in specific areas of greatest need.

To obtain your materials, contact your local UniServ staff, state Association headquarters, or your NEA regional office.



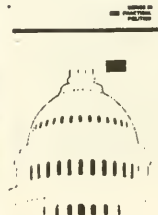
#### How to Set Up and Operate a Local Association Political Action Program

- Organizing for political action
- Achieving the Association's legislative program
- Integrating political action into the local Association
- Developing a local political action program



#### How to Raise Money for NEA-PAC: Education's Defense Fund

- NEA-PAC: Education's Defense Fund
- Rules of successful fundraising
- The payroll deduction system
- Specific programs to raise money for NEA-PAC



#### How To Endorse Candidates

- Principles of endorsing
- Resource allocation priorities
- Timetable for major activities
- The NEA-PAC endorsement kit
- The interview team
- Interviewing guidelines

#### YOU AND POLITICS: A Workbook Introduction

- Why politics?
- What is politics?
- Who decides?
- How can you influence political decisions?
- What are the risks?
- What can you do?

#### YOU AND POLITICS: A Trainer's Guide

- Preparation
- Presentation

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# ITICS

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### How To Recruit, Organize, and Manage Volunteers

- Fundamentals of volunteer campaigns
- The psychology of volunteers
- Organizing a volunteer campaign
- Recruiting volunteers
- Managing volunteers
- Summary: A checklist for handling volunteers



### How To Run Voter Contact Programs

- Fundamentals of voter contact
- Telephone campaigning
- Direct mail campaigning
- In-person campaigning
- Voter registration
- Getting out the vote



### How To Prepare and Use Print Communications

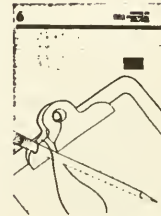
- Effective communications
- Distribution
- Choosing and using the best vehicle
- Writing, design, and production
- Print communications and the law
- A checklist summary

## 3



### How To Participate in Party Politics

- The two-party system
- Bipartisan politics
- Getting involved
- Presidential politics
- A model campaign
- Ten points to remember
- A platform comparison



### How To Conduct Opinion Polls

- Polling and the local Association
- What is a political poll?
- Sampling
- Writing the questionnaire
- Interviewing
- Tabulating the data
- Analyzing the results
- Polling our members
- Checklist for conducting a start-to-finish poll



### How To Target for Elections

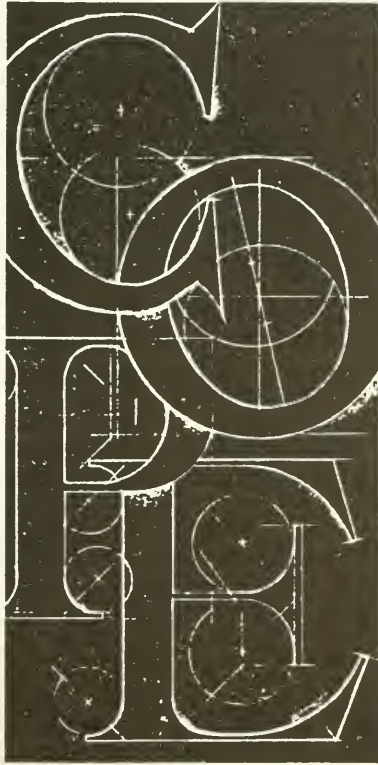
- What targeting is
- Targeting Association members
- Targeting the electorate at large
- Demographic research



### How To Conduct The NEA Congressional Contact Team Program

- Advancing the cause of public education
- NEA Congressional Contact Team program
- Effective lobbying activities
- A lobby campaign

# **YOUR GUIDE TO POLITICAL POWER**



AMERICAN  
FEDERATION OF  
TEACHERS

The CHAIRMAN. Professor Breger.

### STATEMENT OF MARSHALL BREGER

Mr. BREGER. Thank you very much.

The time is late, so I will try to be short. You have my written testimony. I would ask that it be placed in the record.

The CHAIRMAN. Without objection.

Mr. BREGER. You asked me to join you today to discuss the activities of the Department of Labor during the Bush administration to further principles of union democracy. My focus then is going to be about disclosure, disclosure of how union funds are spent, not about questions of what the impact of those funds might be on the political process or about the rights of individual nonunion members who claim, either under the National Labor Relations Act of under the Constitution, a refund for money spent for political purposes that they don't agree with.

I think it is important to be very specific here, because the Department of Labor has no jurisdictional authority to implement the Beck rights, so-called Beck rights, per se. Beck was a decision decided under the National Labor Relations Act, and issues connected with Beck rights are decided by the National Labor Relations Board.

What the Department of Labor administers and enforces is the Labor Management Reporting and Disclosure Act. This act came out of hearings held in the 1950s about organized crime, relationship of unions, about union corruption, and about the lack of union democracy.

It was felt that if union members knew what the income was and what the expenses were, and what those expenses were going for, at least they would be tied down—the unions—tied down to some basic facts about their income and their expenses. This would allow members knowledge about what was happening in the internal affairs of the union and better able to make decisions when it came to union elections. There are other aspects of the act that relate to protecting union elections.

So the Department developed forms by which it required unions to list their income and their expenses, and I believe that you distributed one example of these forms, the LM2 form, earlier during this hearing.

The forms required that disbursements be listed on what is called on object classification—safety, rent, travel. During the Bush administration, we concluded that while this information was useful, it was far more important in most instances to union members to know the purposes for which the money was going, it didn't help them so much to know how much went for rent, how much went for travel; it would help them more to know how much went for collective bargaining, how much went for lobbying, how much went for strike activity, et cetera, et cetera.

So the notion developed of trying to capture what we call—what the accounting profession calls—functional classes and to see the extent to which we would require, or unions ought to be required, to break down their expenses by function as well.

Mr. BERGER. And in 1982, after extensive discussion of proposed regulation, notice and comment, review of that notice and com-



ment, the Department issued a final regulation requiring that the various forms which hitherto had been used with object classification now would require, as well as functional allocation in the following areas: Contract negotiation administration, organizing, strike activities, political activities, lobbying and promotional activities, and another list for other.

We believe that this would go a great way to helping union members learn more than what the union was doing and whether they liked what their union was doing. And that would then impact on union elections.

Now, we are not fools. We understood inferentially that that information might lead someone to say. I don't want to have 60 percent of my funds used for political purposes so I am going to resign from the union. And I am going to then be in the position of someone like Mr. Beck and ask for a Beck refund. But that wasn't the purpose of these new regulations and their new requirements.

Well, I—we were unfortunate that the new administration, when it came in, immediately postponed the effect of these regulations and then, after a year, withdrew them completely; withdrew them on grounds that I think showed a lack of understanding of the value of disclosure and the value of transparency.

First, they said, we are uncertain as to whether there is any benefit, and I am summarizing. We are uncertain as to whether there is any benefit in functional classification. And, second, they said there is an inherent subjective and indecision in the process of allocating expenditures by function.

Now I would have thought, Mr. Chairman, that the goal of the Department of Labor ought to be as full disclosure as possible. The goal ought to be complete transparency, recognizing, of course, that there would be practical considerations inhibiting certain kinds of disclosure, and in some situations the transaction clause may be so great as to mitigate against disclosure. But I think it is particularly unfortunate that in withdrawing functional classification completely, the Clinton administration simply said, we don't believe that this is the goal of disclosure forms in a union democracy context.

Secondly, I think the concern about subjectivity and imprecision also is misplaced. Great pains were taken to accommodate union concerns. This would be extra work. We developed a baby form for unions with under \$10,000 in receipts that didn't require functional classification. We developed a short form, a kind of 1040 short form, if I can use that analogue, for unions with income up to, I believe, if my memory is right, \$100,000. And then we recrafted the existing form to include functional classification.

We gave the unions the choice of working on an accrual basis or a cash basis, and we gave the unions a choice of deciding themselves what allocation criteria to use. All we asked was that it be systematic, that they use the same criteria each year, that it be complete and that, of course, it be reasoned.

But we did not want to leap in and micromanage union affairs. Nonetheless, the Department withdrew this effort, an effort which I believe would have done a great deal to assist union members in understanding the internal workings of their union and what their money was going for.

It would seem to me sensible for this Congress to consider whether functional classification is a useful addition to the arsenal of union democracy.

Let me add as a footnote that the Department also assisted the White House in implementing President Bush's Executive order requiring that notice be given, a notice be posted, to all employers, by all employers who work on Federal contracts; the notice telling workers who are not union members that they did have Beck rights, that they could get a refund. That notice as well was withdrawn, I believe, in the first 2 weeks of the Clinton administration.

You have my written testimony that goes into these matters in some greater detail. I am happy to answer any questions that you may have.

The CHAIRMAN. Thank you very much, Professor Breger. Thank all of you.

[The prepared statement of Mr. Breger follows:]

Testimony

of

Hon. Marshall J. Breger

Visiting Professor of Law  
Columbus School of Law  
The Catholic University of America

Thursday March 20, 1996  
Before the Committee on House Oversight  
United States Congress

My name is Marshall Breger. I am a visiting Professor of Law at the Columbus School of Law, The Catholic University of America. During the Bush Administration I served as Solicitor of Labor under Secretary Lynn Martin. From June 1992 to November 1993, by designation of President George Bush, I served concurrently as Assistant Secretary, Office of Labor-Management Standards.

You have asked me to join you today to discuss the activities of the Department of Labor (DOL) during the Bush Administration to further principles of union democracy. I am pleased to do so. And I am particularly pleased to sit on a panel with Harry Beck who is the kind of active citizen and "private Attorney-General" that keeps our democracy and our courts active and vigorous.

First, let me make one point clear. The implementing of the legal rights enunciated in the Beck decision<sup>1</sup> was and is not the responsibility of DOL. As you know Beck rights are those of a non-union worker in an agency shop who pays agency shop fees (the equivalent of the dues a union member pays). In Beck, the Supreme Court found that those workers could not be forced to support political and other activities of the union not related to collective bargaining, contract administration, and grievance or other representational activities. Put simply they could get a refund for the proportion of their paid-in fees that were used for such "non-chargeable" activity. The Supreme Court specifically tied these "Beck" rights to the unions duty of fair representation under section 8(a)(3) of the National Labor Relations Act. That Act is implemented and enforced by the National Labor Relations Board (NLRB) not by the Department of Labor.

Now as a teacher of administrative law and a student of the regulatory process I find it passing strange that it has taken the Board 8 years to issue its first decision related to Beck - from 1987 when Beck was decided to late last year when California Saw<sup>2</sup> and related cases were handed down by the NLRB. During that time the Board apparently first considered dealing with the matter by rulemaking proceeding and during the Bush administration began such

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<sup>1</sup> Communications Workers of America v. Beck, 487 U.S. 735 (1988).

<sup>2</sup> California Saw and Knife Works, 320 NLRB no.11 (Dec. 20, 1995); See also, Weyerhouser Paper Co. 320 NLRB no. 12 (Dec. 20, 1995)

proceedings.<sup>3</sup> However, on March 19 of this year the Labor Board decided not to pursue rulemaking but rather to "address, on a case-by-case basis through its adjudicatory procedures, the issues raised following the Supreme Court's Beck decision"<sup>4</sup>. The elucidation of the rationale for these changes in enforcement strategy is of course a matter for the Board.

In contrast, The Department of Labor is concerned with ensuring internal democracy within the union context. Its focus then is the rights of union members solely. In order to ensure that union members are aware of union accounts and know how union leadership is spending their dues money. The Department, under the Labor Management Reporting and Disclosure Act (LMRDA), requires unions to file yearly their income and expenses according to what accountants call an object classification -- salary, rent, transportation, etc. In 1992-93 the Department of Labor proposed as well that unions file this information by functional classification -- e.g. the purposes for which the money was being used. We thought, as example, that it would be more helpful to union members to know not simply the amount of money being spent for travel but whether that travel was for organizing, contract administration, collective bargaining, strike activities, political activities or lobbying and promotional activities. Congress, I know, often has analogous questions in reviewing budget breakdowns of federal agencies.

In April 1992 the Department issued an NPRM, Notice of Proposed Rulemaking proposing to revise the various financial report forms unions must file with the Department yearly to reflect various functional categories.<sup>5</sup> On October 30, 1992,<sup>6</sup> after receiving numerous comments and suggestions, the Department issued final rules in this regard.

It should be noted the final rules varied considerably from their initial iteration because they took into account the cost of compliance to labor organizations. After reviewing those (largely union) comments on the extensive transaction costs involved, it reduced the number of

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<sup>3</sup> See, 57 F.R.43635 (Sept. 22,1992); 57 F.R. 47023 (Oct. 14,1992)

<sup>4</sup> See, NLRB: Board Drops 1992 Proposal to Engage in Rule-Making for Agency Fee Procedures, 1996 DLR 53 d16 (March 19, 1996).

<sup>5</sup> 57 FR 14244 (April 17, 1992).

<sup>6</sup> 57 FR 49282 (Oct. 30, 1992).



functional entries to be made by 50%, it effectively waived the functional reporting requirement for small unions with under \$10,000 in annual receipts and it allowed the labor organization itself to choose its allocation methodology as long as "that method was consistent from year to year, systematic and reasonable."<sup>7</sup> In short, the Department went the extra mile to take into account compliance problems and recognized up front that you could not expect "Big Eight" perfection in filings that often, at the local level, were done by lay union leadership.

On December 21, 1993 the Labor Department issued final rules revising the regulations pertaining to filing, by labor union organizers, of annual reports required by the Labor-Management Reporting Act of 1959.<sup>8</sup> These revised rules in effect would rescind the requirement that labor organizations report certain expenditures in functional categories. This and other changes had the effect of returning LMRDA reporting requirements to the general format and scope they had prior to the Bush reforms. The reporting forms are now basically the same as they were when the program first began in 1960.

This change is unfortunate. It is simply inconceivable how the Clinton administration could argue, as it apparently does, that the proposed benefits of functional reporting are "uncertain" "especially with regard to the actual significance of that information in fostering union democracy."<sup>9</sup>

One would have thought that the Department would take the view that the more knowledge of union affairs a member has the better able he or she is to participate in the internal political process of the union. More specifically the more a member knows about the purposes for which a union spends its money the better able her or she is to decide whether to vote back into power the officers who have chosen that spending pattern.

In my view, the goal in reporting of expenditures under the LMRDA should be complete transparency and full disclosure recognizing, of course, that practical difficulties might obviate the attainment of that goal. Nevertheless full disclosure is and should be the goal of

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<sup>7</sup> 57 FR 49285

<sup>8</sup> 58 FR 67594

<sup>9</sup> 57 FR 67596

those administering the Act. For as the Bush Department of Labor pointed out in its NPRM of April 17, 1992:<sup>10</sup>

Providing labor organization members, and the public, with the costs of providing services or other activities on a functional basis will permit a better, and clearer, qualitative assessment of labor organization activities and expenses. In fact, the American Institute of Certified Public Accountants (AICPA), in its Statement of Position No. 78-10, issued December 31, 1978, recognized the need for functional reporting and encouraged labor organizations to report on a functional basis.<sup>11</sup>

Remember, when the LMRDA was passed in 1970 the computer age was in its infancy. The reporting rules were cut to the trim of technological feasibility. Now, with new computer software that lets the ordinary person be master of his own spreadsheet, the kind of information that was unreasonable for small entities without professional accounting advice to provide in 1970, now can be provided without the expenditure of significant transaction costs.

Apparently the Department is concerned about "the inherent subjectivity and imprecision in the process of allocating expenditures by function." The 1992 Final Rule recognized this problem and allowed unions considerable leeway in choosing the allocation system that best fit the realities of their accounting system-so long as a consistent and systematic allocative methodology is employed. It is surprising that the Clinton administration would rely on the flexibility afforded unions in filling out the forms as grounds for jettisoning functional reporting altogether.

On a separate track, during his Administration, President Bush issued Executive Order 12800<sup>12</sup> requiring federal contractors to provide notice to employees of their so-called Beck rights. In order to assist in the implementation of that Executive Order the Department of Labor

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<sup>10</sup> 57 FR 14244, 14245.

<sup>11</sup> 57 FR 14245 (April 17, 1992).

<sup>12</sup> 57 FR 12985 (April 13, 1992) as corrected 57 FR 13413 (April 16, 1992).

issued regulations that, among other things, detailed the notice that employers were required to display.<sup>13</sup> That notice was an approximately 8'X10" poster supplied by the Department of Labor informing workers of their "refund" rights under the Beck decision. Such notice was proposed in part because workers were not likely to read Supreme Court opinions and neither unions nor employers had a particular interest in independently informing workers of these rights. That Order was rescinded by President Clinton on February 1, 1993.<sup>14</sup> As an aside, the NLRB in its recent California Saw opinion found that notice in a union magazine once yearly to be sufficient if the magazine cover advises that a Beck refund notice is within.

I would be happy to answer any questions you might have. Thank you very much.

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<sup>13</sup> 57 FR 49588 (Nov. 2, 1992). An interim notice was promulgated on July 28, 1992, 57 FR 33402.

<sup>14</sup> See, Daily Labor Report E-1 (Feb. 3, 1993)

The CHAIRMAN. So there was a possibility that we could have created reporting procedures that would have given us a little clearer picture on where and how money was spent. Obviously, the one form we looked at doesn't give us very much information. I am sure there are other forms.

About how many forms, do you know, just offhand, do labor unions have to file with the the Department of Labor on their financial activities? Is it 1, 2, 20, 50?

Mr. BREGER. I believe it is one form depending on their size. That is the LM-2.

The CHAIRMAN. So that is the only form? They looked complete to me in terms of the AFL-CIO.

Mr. BREGER. Because it is a large union. However, this form would have been revised.

The CHAIRMAN. Right.

Mr. BREGER. To include functional allocation.

The CHAIRMAN. That is what I want to ask you because they would be the bigger unions. So they could set up their own criteria and they could use whatever accounting method they want as long as they were consistent.

I want to then go to what Ms. Haar said. You would have had, I understand, an organizing strike, lobbying, political activity. Under the political activity heading, it would be up to the union to determine what they believed was spent. Outside of the FEC reports which require you to file the hard money on her chart, for example, that orange sliver, I don't think anybody is arguing that there isn't fairly clear reporting and disclosure of the so-called hard money or the political action committee money of labor unions.

In the rest of the circle, under this functional classification that has now been terminated by the Clinton administration, it would have been up to the union itself to determine what it would have put under the political activity?

Mr. BREGER. Well, except they would have to articulate it. And I haven't had a chance to review the underpinnings of Ms. Haar's numbers.

The CHAIRMAN. Don't worry about hers. Just worry about what you know from the political unions. If we created a functional classification of political activity.

Mr. BREGER. They would have to assign to, let us say, an individual salary what proportion of that salary was used for political activity.

The CHAIRMAN. So there would be rules of allocation that the union would have to follow?

Mr. BREGER. They would have to articulate the rules and those rules would have to be reasonable and over time—over time, I think it is natural to expect that the Department would develop what I will call, quote, a common-law of what is reasonable and what isn't. We felt, and I believe it is appropriate, you couldn't jump in and sort of rewrite an entire world of choices in one fell swoop.

The CHAIRMAN. Sure.

Mr. BREGER. But the important point to remember, Mr. Chairman, is that this document has to be signed. It has to be signed under penalty of perjury and under penalty of violation of Federal

criminal law. So for the first time, when an individual on salary is loaned to a campaign or an individual on salary goes to engage in get-out-the-vote or—for 2, 3 weeks, still getting his salary, or when a phone bank is made available, those sums would have to be allocated from the person's salary to the political. So someone would have to make a determination that 20 percent of this individual's time was spent on political.

Now, whether they are going to make it—try to lighten it rather than make it greater, that is human nature. But the fact is that someone is going to have to make an allocation of their time and it is far more likely that that allocation is going to be made—a signed document that is going to be far more accurate than simply statements made when there is no legal compulsion to do so.

The CHAIRMAN. Or no evidence of that expenditure whatsoever under current law. Or if you used the objective structure on the object classification, as we saw, in trying to read it, there is just no way to determine where and how that money is spent.

Mr. BREGER. Well, it is not its purpose.

The CHAIRMAN. Right.

Mr. BREGER. Its purpose is just to list we spent this such in salary, we spent this much for rent. So it can't—it cannot do that which it is not created to do.

The CHAIRMAN. Ms. Haar, based upon the discussion of a functional classification, would that meet most of your concerns and objectives as you have tried to follow dollars that would be defined in a larger sense political rather than in the narrow sense?

Ms. HAAR. Not at all, Mr. Chairman, for a couple of reasons.

The CHAIRMAN. Okay.

Ms. HAAR. The first is, teacher unions are public sector unions. And only when a public sector union employs someone from the private sector is the LM-2 report necessary and required.

So while the national organizations, the NEA, and the AFT, when you see them on the bottom chart, local, State and national, so at the national level we are talking about the national organizations, they are required to file because they, indeed, do have some teachers who teach at private schools.

At the State level, there are about a dozen State NEA/AFT affiliates, and I am not positive of that number, by the way, but a small handful of them employ or have as they members individuals who also teach in private schools, requiring them then to file the LM-2 as well. All other teacher unions would not come under any report requirement to file any kind of information as detailed as you are talking about with the functional criteria or even the objective criteria because they do not file LM-2 forms and none of them at the local level that I am aware of do they.

The CHAIRMAN. What forms, to your knowledge, do they have to file with anybody?

Ms. HAAR. The form 990 is essentially an income tax report form.

The CHAIRMAN. Correct. We have looked at some 990s.

Ms. HAAR. Right. So there are criteria that depending upon the amount of money that each organization passes through its accounts, whether or not that organization is required to file.

The CHAIRMAN. So we have private unions and public unions.

Mr. BREGER. Public unions are not under the jurisdiction of that.



The CHAIRMAN. And public unions are not. To be able to get a report on what are arguably some of our largest and perhaps fastest growing unions, the public unions, you would need to include them in some kind of a reporting structure which would include both object and functional classification, I guess. That would give you then a complete picture?

Are we basically saying there are two classifications, private and public? I can't think of a third. That pretty well covers it.

Ms. HAAR. That is all that I am aware of.

The CHAIRMAN. OK.

Well, Mr. Beck, you were involved in the private union side. So would the advent of a functional classification, at least in its broadest sense, being reported to you, give you some satisfaction beyond what you got from the labor union officials as you tried to determine what portion of your dues was going toward political activities?

Mr. BECK. No, sir, not at all.

The CHAIRMAN. And why would it not?

Mr. BECK. Under *Beck v. CWA*, the court master took approximately 2 years to determine the accounting capabilities and work that the union was describing, and their percentages came out to be 79 percent as political activity, under the present reporting status.

The CHAIRMAN. Had the union determined what the amount was?

Mr. BECK. No, they had not, because at this point reporting had not been a requirement for them. This is why it was turned over to a court master. They weren't even keeping records on most of this stuff.

The CHAIRMAN. And did they quarrel on the 79 percent?

Mr. BECK. Oh, yes. It started out at first at 81 percent, and they quarreled and the court master condescended back to 79 percent. But today under the agreement worked with Jim Caucus, the union has submitted to those of us who are protected by that agreement not to be fired if we agree to pay a reduced amount. That amount submitted by the union is now 100 reversed. We now pay 78 percent and they claim only 22 percent.

The national organizations, the NEA and AFT do file Form LM-2, because they indeed, do have some teacher members who teach at private schools. When you look at the bottom of the chart (Exhibit 1) you see state and local union affiliates listed as well.

Some state NEA/AFT affiliates also file the LM-2. There are about a dozen State NEA affiliates which file, although I'm not positive about that number. (Ms. Haar supplied data after the hearing indicating that 10 state NEA and 21 state AFT affiliates file form LM-2). A small number of state affiliates employ or have as their members individuals who also teach in private schools, requiring them to file the LM-2. Unless the criteria are met, all other teacher unions (NEA and AFT affiliates) would not come under any report requirement to file any kind of information as detailed as you are talking about, with the functional criteria or even the objective criteria because they do not all file LM-2 forms.

Now, one of the reasons that this reporting, in my opinion, is not going to do the job is what happened in Oregon with the Ron

Wyden election. I can only speak to what people told me because I have no access to records. I do not have subpoena power or any of that kind of stuff and anything that I would do would cost me millions to try and uncover. The union has been taking union dues, under Beck, for arbitration, grievance handling, and bargaining. Those are the core costs.

In the company's effort, especially US West—now, I cannot speak to other companies. I have to speak to only the company I work for—they have been in a downsizing trend and in that shake-up the center of the protest movement happens to be in Oregon and Washington have taken the biggest hit. We have taken such a decimated loss of workers that they now are hiring Canadians to come in and do the work that we would normally be doing in the Oregon area. I asked, where was the union who to date has not filed one protest?

Back in 1991, US West had two pension funds. One was management; one was craft. They managed the management fund. They had not made a payment to either fund since 1987 and it had continued to grow to the point that both of them were somewhere near \$4 billion. The company was greedy. They decided to bring these pension funds together. At this point, there are cases pending in Denver by a lawyer by the name of Curtis Kennedy who has US West on the ropes where he has fact that they have been paying boards of directors out of pension funds.

My question then becomes, how did they get away with this if the union, in due diligence and at least some sort of fiduciary responsibility to protect the employee pension fund, how was this allowed? This goes back to my conspiracy thought. Why is it a conspiracy? Because I happen to know that there are certain workers who went out on company time, being paid by company salary, to campaign for Ron Wyden; more soft money that never even ended up in any way, shape, or form reportable to the union.

CWA and the company also conspired to do away with a local labor union called ORTT and they did it legally. I am not saying they did anything illegal, but this conspiracy where CWA is working with companies, we never know in the reporting procedure how many people are being paid by the company and doing union work because there is no track of that. On my time card, as long as I put down a code that satisfies the company code, and it can be a work code, they don't know what I am doing, especially if I signed off for union activity.

So the reporting is a panacea. It will work only if we have severe enough penalties to make it work should we deal with a company and a union that decide to conspire against the worker.

The unfortunate part about this is that in order for the worker to have any relief we have to fund ourselves to try and open this all up in a court of law. And this is the frustrating part for me, Mr. Chairman.

The CHAIRMAN. Well, if you begin down the path of trying to write laws to protect against conspiracies or folks who are out to violate the law, you are never going to be able to write it.

What we are trying to do, I believe, is to create a degree of transparency so that people will have sufficient information to make a decision. And as I have said, inside labor unions, with their own

members, is really primarily the jurisdiction of the Committee on Economic and Educational Opportunities.

Our concern is about dollars that are being utilized without being transparent or used without the complete knowledge of people in the electoral process. I would be interested in working with other committees to try to create a degree of transparency for the purposes of understanding the money spent to influence elections, which by its very nature, I guess, would assist union members in understanding where and how their money was going, and then they could form an independent judgment based upon that knowledge as to whether they thought it was for a good cause or not. And so I am beginning to form in my own mind that we can deal with one portion, Education and Economic Opportunities can deal with another portion, but together we might be able to craft a structure which would address most of the concerns.

Mr. BECK. As long—excuse me.

The CHAIRMAN. No.

Mr. BECK. As long as the worker is given the opportunity to say, no, I can agree with that. The law isn't perfect. I agree with that. And conspiracy uncovering is an impossible task. That is what makes trying to litigate these things so difficult.

This is why it is so important that the worker be relieved of the responsibility of having to go to such great lengths to say, no, I don't want to support this, and expect an accurate accounting like you are dealing with.

The CHAIRMAN. We are talking about being able to say no to those aspects of the union activities which are not focused on the, I guess, *raison d'être*, the essence of union's collective bargaining work, wages and hours and so forth. We are not talking about creating an opportunity at this situation to opt out of a structure in which you would indirectly benefit by virtue of the hours or the wages that would be provided because of a union contract.

Mr. BECK. I could live with core costs financial responsibility if, indeed, we could achieve a method of accurate accountability, as well as automatic implementation, so that the worker is not at burden to have to continue to fight to get the rebate.

The CHAIRMAN. See, our goal would be to create a transparent system, one, so that the voters would have an understanding of when and how much this money was influencing elections. Secondly, if we created a system to provide that in the electoral process, the worker would have an ability to decide whether or not that is money that they want to continue to contribute.

The end result would be money spent by unions for political purposes would be voluntary money within the structure, which would be then disclosed. That then would place unions pretty much on the same playing field as political parties or political action committees, where the money is voluntary and it is reported and disclosed.

If we could move to a classification system and a reporting system which would have labor union money available on a volunteer basis, disclosable and reportable similar to political parties, would that not then meet the concerns of everyone on the panel? The question is how you do it.



Mr. BECK. The one thing that I have to stress, because even today with an accounting procedure and a discrepancy in accounting procedure which can be worked out by the professionals, we as workers still do not—are not granted the right to protest without going through all kinds of genuflecting and constantly facing unions ignoring us.

The CHAIRMAN. If by definition the money that could only be used in the political activities is defined as voluntary, you would simply then have the ability to say, I choose not to pay that portion of the fund?

Mr. BECK. If indeed that is the limitation you are going to place. But as it stands right now, most union contracts require at least full union dues and then you can file for the rebate. And if you don't file, then you don't get it. Or if you file outside of a window of relief, you don't get it. And if you don't file every year, you don't get it.

The CHAIRMAN. But if you required unions to use only voluntary funds they would then have to determine what portion of those dues were for political activities and break it out?

Mr. BECK. And not collect it.

The CHAIRMAN. You could get to that point. You would then have to have a voluntary submission.

That goes, Mr. Breger, way beyond what you folks were offering in terms of the way in which labor unions classified the expenditure of their funds; isn't that correct?

Mr. BREGER. Yes, because you have to remember, Mr. Chairman, the concern of the Labor Management Reporting and Disclosure Act was to increase worker knowledge of the internal operations of the union. The concern was not connected to how that money was then spent.

The CHAIRMAN. Right.

Mr. BREGER. Especially for political purposes.

The CHAIRMAN. But falling short of the discussion we just had, moving from object classification to functional classification, which wouldn't get the answers we have heard from Ms. Haar and Mr. Beck, that they were looking for, even going that one step has been rejected by the current administration?

Mr. BREGER. Yes. The Clinton administration issued a regulation revoking functional classification in December of 1993.

The CHAIRMAN. So even taking a small step wouldn't even be satisfactory to these individuals with a desire of a right to know union spending, notwithstanding the Clinton administration wouldn't even take this small baby step that the Bush administration had taken?

Mr. BREGER. Yes. May I make one point of clarification?

The CHAIRMAN. Sure.

Mr. BREGER. The breakdown under the Lanham-Griffin act, the functional classification that we have talked about, is not legally the breakdown which is used under the National Labor Relations Act. That is to say, a Beck protestor, someone who wants to make use of their Beck rights and ask that there be a breakdown between political and nonpolitical, the decision as to what expenditure is political and therefore not chargeable or for other union purposes and therefor chargeable, have to be made by the labor

board or the court. So there is not an automatic overlap. There is a rough consonance, mind you, but I thought it important to make that point.

The CHAIRMAN. I appreciate that. So the National Labor Relations Board would be the ones who would involve themselves with the information of the individual's right to do this and would be the final arbiter, short of court, of determining what would be political and what would not, rather than the Department of Labor?

Mr. BREGER. Correct. And one of the problems, and I leave it for greater minds to figure out why, but one of the problems is that it has taken 7 years or so for the board to issue its first opinion in the Beck area, issue its first opinion at the December—as of December 1995. So that many of these questions have been uncertain and, of course, it takes a number of opinions before some kind of rough guide develops as to what is chargeable and what is not chargeable.

The CHAIRMAN. But there isn't any reason, to your knowledge, is there, that Congress couldn't help the process along by giving them some fairly specific guidelines and structures?

Mr. BREGER. There are a lot of things that Congress can do in that area, yes, Mr. Chairman.

The CHAIRMAN. OK.

Does either the gentleman from Michigan wish to inquire or the gentlelady from Washington? I know you didn't arrive early but if you want to make a comment, it is up to you.

Mr. EHLERS. Mr. Chairman, I just wanted to comment.

I appreciate the testimony that you gave. There is somewhat of a perception that Republicans are anti-union. That is certainly not true. I have been a supporter of unions. I think they have an important place in American life, certainly American political life, but I don't think any organization should be above restriction, examination, and disclosure.

What has struck me about your testimony, particularly Mr. Beck, but all of you, and what struck me, Mr. Chairman, was the chart you had prepared which you displayed during the previous panel. It is clear that we have imposed very complete restrictions on our political activity, the activity of political parties, including complete public disclosure, very strict rules about what we may and may not do, and we seem to have left out of that some very—other very important components of the American political scene, and it seems clear to me that those are areas that have to be addressed if we are serious about campaign finance reform.

And it doesn't matter whether it is the unions or corporations or there are other types of political activities that take place, too. Clearly, those should have the same level of disclosure and stockholders should be aware of what corporations do in the political arena, as well as the American public. Union members should be aware of what the union members are doing in the political arena, just as the American public should be. We certainly disclose everything about political parties except of course the soft money issue, and that is one I think we will be addressing as well. So the goal has always been in campaign finance reform to have well established rules and complete disclosure, and it is clear to me how far we are from that ideal at this point.



I want to thank the panel for their comments and would yield back to the Chairman.

The CHAIRMAN. I thank the gentleman for his comments because again it is rather ironic that we had our colleagues walk out when I thought that labor unions were, in essence, self-nominating themselves for examination, given the area in which we know nothing about them and all of the headlines indicating that they were going to be far more aggressive than they have in the past in directly participating both in dollars and in participation in ways that perhaps under the law may not be narrowly defined as political involvement but which clearly influence the political system. We would almost be subject to removal—malfeasance in office if we didn't begin a series of hearings to ask questions about how much money is involved, where and how is it spent.

What I am discovering today, because obviously we don't spend a lot of time with labor law here, is that unions are not only enormous participants in the system dollar wise and body wise but that they are very unique institutions under the law, handled far differently than any other organization, even corporations. I think the key there is that unions get their dues on a nonvoluntary basis, and that makes them, I think, unique institutions that we need to look at.

I thank the gentleman for his observations. Any of the panelists want to make a comment on that?

Mr. BECK. Yes, if I may.

The CHAIRMAN. Certainly.

Mr. BECK. I have been painted by many people as being a union buster. I, too, want to go on record, and I wasn't going to do this but this is probably the best forum I can think of, I am not anti-union. I am anti representation. I am anti free choice. And if you take the facts that Mr. Troy brings up about the unions raising \$6 billion for campaign financing every year through forced union dues, and you take that fact with what you are trying to do back to the Reagan and/or the Bush administration, where 45 percent or somewhere thereabouts of the labor force voted for those people against their dollars, that is \$2.7 billion that they wouldn't have had to raise if those 45 percent had been given the opportunity to choose.

Thank you.

The CHAIRMAN. The gentlelady from Washington.

Ms. DUNN. Thank you, Mr. Chairman.

I want to thank the Chairman and all of you on the panel for bringing this whole thing to focus. Three years ago I signed up to be on this committee because I was interested in campaign finance reform. I had been a party chairman for a number of years in Washington State and so had some experience working on various levels, the party chairmanship, being a candidate, and so forth. I was very, very disappointed when I was appointed to the Elections Subcommittee of House Administration that was to consider campaign finance reform and found that the Chairman of that subcommittee intended not to take the issue through subcommittee, and instead took it right to the full panel. We did not have any kind of testimony such as what we have been hearing today. For example, I had never been aware before today that there was no

disclosure required for unions. I think it is appalling. I think if we can call attention to one thing through this whole day, and I thank you for sitting through all of it, it is that. I think if people out there knew that this was happening that they would not think it is fair or appropriate.

Certainly, I support the comments of my colleague from Michigan in that I work with labor unions a great deal in the area that I come from, and if nothing else, we certainly have in common the issue of jobs. But allowing the forced payment of union dues for political purposes is an oversight and there is a Supreme Court ruling that governs this that apparently is not being enforced.

I want to make just one comment about soft money. Soft money must be reported. Soft money is seen by many people as the great demon of campaign finance reform. I am a party chairman who has worked with soft money. I have always called it party building money. It must be disclosed, either under Federal election rules or under public disclosure in our States, so you know where that funding is coming from. Party building money is a very helpful type of funding to coalesce our volunteers and our supporters—that is what it can be used for, that or administrative overhead.

But here we have undisclosed money that has been declared by the Supreme Court to be apparently refundable.

I would like to ask you, Mr. Beck, since the Supreme Court has said that the union dues of objecting workers should not be used for politics, what my question is, happens when these challenges arise, as they must have since the late 1980s when that Supreme Court decision was handed down? What is the action that is taken when one goes after enforcement of the Beck decision?

Mr. BECK. In many cases, the applications are lost; they just didn't make it in the time frame that it was supposed to be, or they are ignored. Or we have to threaten with more lawsuits to have money refunded. And—in the union's favor, I think that they have tried to straighten out one discrepancy and that is taking full union dues and then rebating, which the law has said that is a forced loan. They are now allowing, as file protesters, as long as we meet the obligations that Abrams has just confirmed and that is meeting a window of responsibility; we file every year and they pre-pay a group amount. That is not acceptable because we never know through the entire year what they are going to be spending. Therefore, we suggest, those that I represent and myself suggest, that we ought to be allowed not to pay at all every month as opposed to having a lump sum back which may or may not be accurate. But we don't pay every month based upon last year's criteria. And then if we have to change that in the new year, it becomes the union's responsibility to show cause.

We are fighting this tooth and nail. It is a sad situation.

Ms. DUNN. What kind of money are we talking about? How much are union dues?

Mr. BECK. I think at the last assessment full union dues was \$42.28 a month, of which using their figures we are able to pay \$32.64. Please, my math—it is on my computer.

The CHAIRMAN. Times 12 is \$16 million roughly.

Ms. DUNN. Yes. I will tell you, frankly, Mr. Chairman, I mean, I have a real problem with this because of the ads you saw on T.V.

I mean, those two Congressmen, Congressman Tate, and Congressman White, they are from my State. Every dollar they collected had to be disclosed and was freely disclosed by the. Right now, they are each going through the experience of having something like \$400,000 worth of union money paying for ads like the ones you saw, dirty tricks ads, as far as I am concerned. You can't respond to something like that. They can't respond with \$400,000 each of them.

Where is the money coming from? I mean, what is at the base of this whole thing and why is the Supreme Court decision not being enforced?

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

What is perhaps most frightening in all of this, and obviously it is very difficult to determine the amount of money involved, and there is clearly going to be more money involved, is the amount of money involved in the political system, if it were truly accounted for, and it might be as much as 100 percent more than we believe is in the field. And I think it is just appropriate to perhaps close this particular hearing with the words of the Ranking Minority Member from California, which we recited at the first hearing.

And I will quote Mr. Fazio. He says, so I hope as we enter into the fray of campaign reform, we are willing to for a moment abandon some of our finest positions and try to understand the environment we are truly in.

He goes on to say, I would thank the Chairman once again for convening these hearings. I think today we move not only to hear the diversity of views from our colleagues, but we move on to hear from people active in the political environment, both professionally and in terms of their citizen participation, and it will help us to understand the complexity of the problem and some of the pluses and minuses of various solutions that have been offered. And I truly believe that if we are honest and through in who presents information to this committee, it will help us come up with something that might be conducive to bipartisan, at least broad, political acceptance.

I think it is rather prophetic that as this committee moves into a broader and more thorough understanding of what really are political dollars, that the gentleman from California chose to walk out and have his other colleagues walk out with him.

We will not be deterred in trying to understand the full impact of all of the dollars involved in influencing the political system. We may have to work with other committees to fashion a remedy to primarily provide for transparency and disclosure in the system so that people can, in the words of one of the better definitions of politics, really understand who gets what, when, and how. If that is the definition of politics, then there appears to be a whole lot more money involved in the political process than we are currently aware of.

The committee will continue to hold hearings and to get a fuller understanding of how far we have to go to make sure that dollars that are clearly spent in the political arena for political purposes are identified and made known, not just those individuals whose

dollars they are in the first place but to the larger public so that we can fully understand who is trying to influence us and how.

I want to thank the panel for their participation on this committee and without any further questions, the committee stands adjourned.

WILLIAM M. THOMAS CALIFORNIA  
...HARRISMAN

JEFFERSON J. ELMERS MICHIGAN  
PAT ROBERTS KANSAS  
CHRIS A. SCHMIDT OHIO  
JENNIFER DUNN WASHINGTON  
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SAM GLICKSON CONNECTICUT  
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WILLIAM J. JEFFERSON LOUISIANA  
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## Congress of the United States

### House of Representatives

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March 8, 1996

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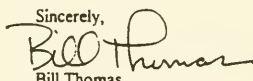
Mr. Ronald Carey  
President  
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25 Louisiana Avenue, NW  
Washington, DC 20001

Dear Mr. Carey:

The Committee on House Oversight will continue its series of hearings on issues related to the financing of federal campaigns on March 21, 1996. This hearing will focus on the role of "non-federal" funds, i.e., those that fall outside the Federal Election Commission disclosure requirements, in influencing the outcome of elections. In past hearings, the Committee has heard wide-ranging testimony on the role of PACs and political parties in the elections process. This hearing is the logical next step in our efforts to examine the relationship between contributions, expenditures and election results.

Accordingly, the Committee invites you to join us on March 21, 1996 at 10:00 a.m. in room 1310 of the Longworth House Office Building to discuss the Teamsters' participation in election-related activities. While we anticipate the hearing will last up to four hours, we ask that you appear for approximately one hour. We believe the hearing will provide valuable information to the public about this aspect of campaign finance.

Please contact Samantha Kemp at (202) 225-8281 to finalize the arrangements and coordinate submission of testimony. If you have further questions on the substance of the hearing, please contact Stacy Carlson or Roman Buhler at the same phone number. We look forward to your appearance before the Committee.

Sincerely,  
  
Bill Thomas  
Chairman

cc: Members, Committee on House Oversight



INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
AFL-CIO

---



March 20, 1996

The Hon. Bill Thomas  
Chairman  
Committee on House Oversight  
1309 Longworth House Office Building  
Washington, DC 20515

Dear Congressman Thomas:

We appreciate the invitation to meet with you to discuss labor expenditures and political campaigns. However, we will not be available for the hearing on March 21.

Sincerely,

William W. Hamilton  
Director, Government Affairs

DATE: 2-77  
PAGE: 5-0

## *AFL-CIO Is Planning Assessment for Drive To Elect Democrats*

By a WALL STREET JOURNAL Staff Reporter

BAL HARBOUR, Fla. — The AFL-CIO's new chief is planning to assess each union member 15 cents a month for the next year in an ambitious strategy to help elect Democrats in 73 congressional districts.

The assessment would raise between \$24 million and \$25 million, part of a minimum of \$35 million that John Sweeney has committed to the crusade. The assessment proposal will be voted on next month at a special convention to be held in Washington. Convention delegates also will vote on whether to endorse President Clinton in November's general election.

Mr. Sweeney is seeking to restore the AFL-CIO's central role in the Democratic Party. When he was elected last October, he said his overriding goal was to pump new life into America's sagging labor movement, and to make it relevant again in American politics.

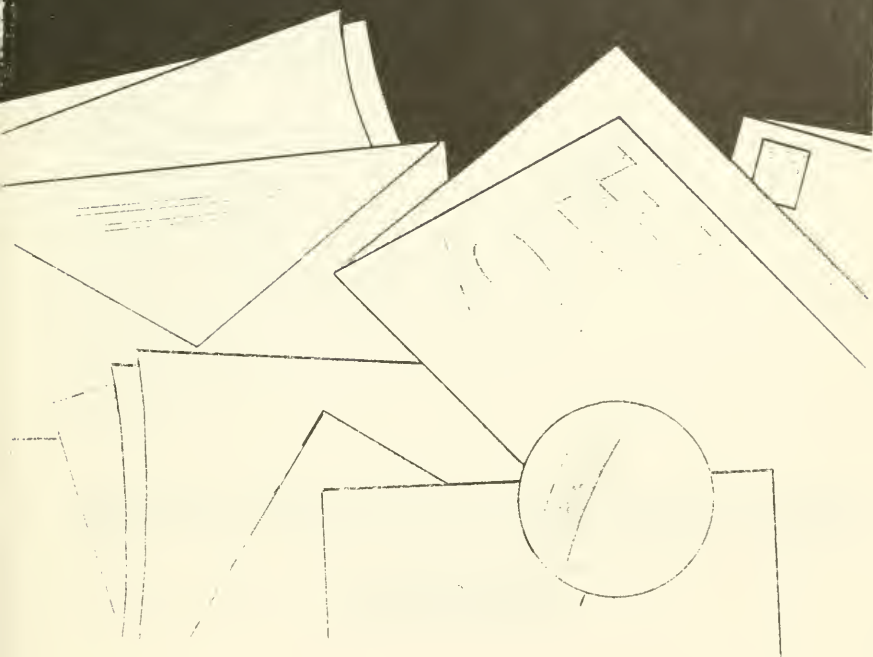
In kicking off his campaign at labor's big winter conference, Mr. Sweeney surrounded himself with a fresh team of young activists, people like 43-year-old Steve Rosenthal, whom Mr. Sweeney tapped to head the federation's once-powerful political department.

Mr. Rosenthal, who left the Labor Department to work for the AFL-CIO, said a lot is riding on November's outcome.

"In the last year plus, we have seen the worst assault in history on the American worker," he said. "If there is to be any economic justice in America, a strong labor movement is essential."

The AFL-CIO will use the money to target congressional districts where it feels Republicans are most vulnerable. But more than money, labor leaders say, they will flood each selected district with grassroots organizing, at least 100 organizers in each district.

# How To Prepare and Use Print Communications



# Introduction

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In too many places, from too many quarters, public schools and teachers are under attack.

We face great issues: tuition tax credits, education reform, voucher systems, competency testing, academic freedom, collective bargaining, funding cuts, and more.

Fighting back means fighting back through politics—practical politics. That is what the *NEA SERIES IN PRACTICAL POLITICS* is about—practical politics from start to finish.

This series logically grew out of the NEA Political Action Series as demand increased for additional material. Each book includes descriptions of specific programs as well as checklists, timetables, forms, and other materials to make the program work.

This book, "How To Prepare and Use Print Communications," like each of the books in this series, is practical because it is specific, systematic, and proven. Every program, every checklist, every suggestion has worked in a real political situation. You'll have to adapt the programs to your needs and capacities, but you are starting with workable, tested, practical ideas.

Kenneth F. Melley  
Director of Political Affairs

August 1985

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# Effective Communications

Communicating effectively is vitally important to political action, as it is to all human relations. Because of the impact politics has on public education, political communication is especially important to Association members. Effective communication regardless of type — personal, electronic, or print — helps us win.

This book is designed to help you reach Association members through printed materials clearly, directly, persuasively and efficiently. We'll cover how to develop a message and deliver it. We'll examine in detail how to produce printed materials. And we'll present many useful examples.

By following the guidelines presented in this book, your print communications will become better and more successful. Quality education and our students will be the real "winners."

Additional books in the *NEA Series in Practical Politics* present suggestions for using in-person, telephone and other forms of member contact.

Before narrowing our discussion to print materials however, let's review some principles that apply to all types of political communications and examine what a "model campaign" ought to look like.

## POLITICAL PERSUASION

Nationwide, rarely do more than half of the eligible voters actually vote in any specific election. Non-voters overwhelmingly give two excuses: their vote "won't make a difference" and they "don't know enough to vote wisely."

Clearly, the voters must be made aware of the importance of the election or referendum and they must be provided with adequate information.

Communicating with your members uses the same techniques and strategies as a campaign among the general public. The steps necessary to persuade a person to vote are shown below.

## STEPS TO POLITICAL PERSUASION

### Step One: AWARENESS

To persuade someone to vote, he/she must first be made *aware of your campaign*. Establishing name identification and issue awareness is part of this step. "You can't like somebody you've never heard of" is an old political adage underlying the importance of this task. Many campaigns, especially those for state legislature and local office, never create awareness.

### Step Two: KNOWLEDGE

Once awareness is established, the voters need information to become *knowledgeable* about the candidate and the issues. It's your job to provide the information they need to feel capable of casting an educated vote.

### Step Three: PREFERENCE

This information must create a *liking* for the candidate. This liking then must become *preference* over the opponent. Campaigns are often like jury trials — each side gives the jury of voters persuasive reasons to support their candidate and oppose the other.

### Step Four: ACTION

The persuaded voter must actually *turn out to vote*.

## A RESPONSIVE CHORD

Effective persuasion comes more easily when the persuasive message strikes a responsive chord with the voter. Ideally, the voter should see or hear your message and think, "that really makes sense. I've been saying that for years!" Striking a responsive chord has two parts: **your message must be relevant to the voters and it must be credible.**

Most sophisticated campaigns for office rely on polling data to gauge the relevance and importance of issues among the voters. Clearly, education issues are likely to strike a responsive chord with Association members. But you may also want to include other important issues.

For example, unemployment, toxic waste, farming or other issues may be of great concern to nearly every voter in an area, including the education community. Stress not only the candidate's importance to quality education, but consider including the other issues: "Rep. Helen Jones also wants to make sure our area continues to be a great place to live. That's why she's fighting for jobs here, close to home. In Congress, Helen Jones is . . ."

The second part of striking a responsive chord is credibility: your message must also "ring true." Messages that are at odds with accepted

beliefs will not be readily accepted. For instance, if your candidate is a 16-term veteran, a message that shows the candidate as an experienced statesperson will be more successful than one that claims he or she is a young and vibrant leader.

Make sure your message is clear. Don't cloud the issue. Express it in simple terms. Explained simply and clearly, your message is easier to understand, has more credibility, and is more powerful in terms of persuasion.

Most important, continually check with the candidate's campaign organization to make sure your message is consistent with what the campaign is saying.

Remember, when planning a campaign to meet the particular needs of your Association, it helps to first determine:

- What are your Association's budget limitations?
- What are the best techniques for reaching your membership?

How your message is delivered is as important as the message itself. Some key principles to keep in mind for delivering your message are found on the next page.

## DELIVERING THE MESSAGE

1. **Balance "cost/effectiveness."** When developing your campaign programs, ask yourself:

- Who must we reach to have a successful campaign?
- What are our resources?
- What are the best techniques within our resources for reaching our members?

You have only three resources: time, money and people. Each form of contact has different "costs." For example, having Association representatives contact each member personally is clearly the most effective type of contact and requires little money. Yet it is "expensive" in terms of people and time.

Compare the cost with the effectiveness of the contact. An emery board imprinted with the candidate's name may cost 18 cents, while a good brochure cost only eight cents to print. However, the brochure can convey knowledge and build preference while the emery board can only produce awareness.

Make sure you can commit sufficient resources to make an impact. Only use a contact method when you have enough time, money or people to use it correctly and make a major impact on your members.

2. **Repeat.** Plan on reaching your members five to seven times (not counting paid media) to make sure you've completed the political persuasion steps.

3. **Vary the delivery method.** Use as many different methods to contact members as you can. Personal contact, direct mail, video tape, telephone banks, bulletin board materials, Association publications, brochures, and flyers have all been proven effective.

4. **Be consistent.** Association members receive political information from the Association itself and from external sources such as the commercial media and the candidates. Your internal messages will be more powerful if they are consistent with the external messages.

5. **Judge its "warmth."** "Warmth" of contact influences effectiveness. A personal conversation with a respected colleague and friend could very well be the most persuasive contact possible. That's why personal contacts by an Association representative can be so important. Telephone calls and direct mail letters are also "warm" contacts. A list of endorsed candidates in an Association publication is very "cold."

## A GOOD CAMPAIGN

The "model campaign" outlined below illustrates just one way to reach members several times with different communication methods. Because various contact techniques are used (personal, telephone and mail), the member is not likely to feel "harassed." These techniques are used in a strategy aimed at bringing members from awareness to turn out on election day.

1. In the year preceding the election, member activists visit the local elections office. The voter registration records are checked to see if each member is registered and to gather additional political data such as party affiliation, state legislative district, precinct, voting frequency, etc. Each member's political data is recorded.
2. Candidates who are friendly to education are invited to popular Association functions. The Association's publications frequently mention the office holder's positive actions. Don't wait for an election year to begin helping candidates.
3. Unregistered members are encouraged to register by their Association representative or other member activist. If the state permits postcard registration, the Association representative provides the members with the form.
4. Two weeks after the registration drive, activists return to the registration office to see if each member promising to register has filed.
5. Twelve months before election day, the Association begins its candidate endorsement process, which includes having candidates complete questionnaires, interviewing candidates, and, if candidates currently hold public office, analyzing their voting records. Generally, this takes about 16 weeks. A model endorsement process is outlined in detail in "How To Endorse Candidates," a book in the *NEA Series in Practical Politics*.
6. After making a realistic assessment of resources, the Association decides to reach members through personal contact and a telephone bank. A poster, leaflet, brochure, and direct mail letter are planned as supporting materials.
7. Five weeks before the election, the Association representative places a poster supporting the candidate on the school bulletin board (where permitted). One week later the Association representative or an activist in each building speaks with each registered member, urging their support for the candidate and giving them a leaflet.
8. Three weeks before the election, activists telephone each registered member to identify their preference of candidate and to urge support for the Association-endorsed candidate.
9. Each call is followed up with a brief handwritten note from the telephoner mailed with a brochure.
10. Two Fridays before election day, a direct mail letter is placed in members' mail boxes at school (where permitted). The brochure is again used as an enclosure.
11. Beginning the next Monday, each registered member is contacted either in person or by telephone. They're asked if they had a chance to read the letter and brochure, whether they have any questions, and if their support can be counted on.
12. On the final weekend, each member who has pledged support *and* who has a mediocre history of election day turn out is called. These are the target members. Members who vote in virtually every election are very likely to turn out without the telephone call.

The target members are reminded of the approaching election and also the hours and location of their precinct polling place. They are asked if any assistance getting to the polling place, child care or any other kind of help is needed.

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13. On election day, each target member is reminded by their Association representative or other member activist of the importance of voting and once again is urged to support the endorsed candidate. Transportation to the polling place, child care, and other forms of assistance are provided.

Having now reviewed some principles that apply to all types of political communication and examining a "model campaign," let's narrow our discussion to print communications.

## **PRINT COMMUNICATIONS— THE TWELVE-SECOND OPPORTUNITY**

The following sections of this book provide detailed information on preparing and using printed materials to reach our members effectively.

Although Association members can be counted on to read well-prepared political campaign material, **most will scan it for only about 12 seconds**. But if you've carefully written and designed the material, that's plenty of time to get your message across.

By preparing material to survive the twelve-second scan, you will automatically produce print material that encourages readers to read thoroughly.



# Distribution

Your choice of which method of distribution to use for your printed material depends to a large extent on the answers to these questions:

- Who is your targeted audience?
- How much money is available?

There are three basic methods of distributing printed material, which we shall discuss below: in-person, through the mail, and by posting.

By and large, state and federal laws place few restrictions on an Association communicating with its **members and their immediate families**. However, problems can arise. For example, some states or school districts restrict the use of bulletin boards or school mailboxes. For a discussion of the federal elections law, see "Print Communications and the Law" on page 27. If you have any questions about federal or state laws or regulations, be sure to check with your state Association.

## IN-PERSON

Giving out pieces of printed material in-person is clearly the most effective method of distribution. It encourages in-depth conversations on the candidates and issues. It allows members to talk directly to members, to point out what's most important in the material, to emphasize points, and to answer questions.

Person-to-person contact has also been proven to be the most effective medium of persuasion.

However, as we discussed on page three, it is not always possible to talk with each and every member person-to-person. Sometimes, this proves to be too costly in terms of time and money required.

One-on-one contact is discussed in much further detail in "How To Run Voter Contact Programs," another book in the *NEA Series in Practical Politics*.

## DIRECT MAIL

Many people think of direct mail primarily as a fundraising device. However, the discussion below applies *only* to direct mail campaigns aimed at persuading members to support a candidate or an issue. It does *not* apply to fundraising campaigns. **Guidelines for using direct mail for fundraising are more complex and fall outside the scope of this book.**

Direct mail's ability to **convey knowledge** makes it equally suited to political communication and persuasion.

Direct mail is also suited to political communication because it can be **highly targeted**. For example, a mailing can be targeted to people whose party affiliation, voting preferences or issue concerns have been identified through a phone bank.

Direct mail can also be targeted according to members' job categories, the subject and grade they teach, their age and years of service, and the location of their residence. (Note: when developing a list of members targeted by place of residence, be sure to include members of other NEA affiliates who live in your targeted area.)

Different letters can be sent to people based on these factors which contain messages likely to strike a responsive chord. If mail is targeted on candidate preference, for example, supporters can be sent messages based on this preference, designed to solidify their support. Undecideds can be sent a more persuasive message, and supporters of the opponent can be sent information on why their candidate does not adequately represent them.

A well run campaign often mails information five or six times to voters during the course of a campaign. However, regardless of how mail is used, getting people to open and read the message is the biggest challenge in using direct mail, especially if voters are being deluged with candidate materials just before the election.

Brochures, letters, postcards and imitation "telegrams" are among the most common direct mail techniques. Each has strengths and weaknesses.

A brochure, for example, can be designed with a mailing panel allowing it to be used as a mail piece in addition to in-person campaigning or literature drops. However, simply mailing a brochure is a fairly "cold" contact. Many tacticians believe using a brochure as an enclosure for a letter is much warmer and more persuasive.

Postcards are especially useful late in a campaign because voters may be flooded with political mail and not even bother opening a letter. They are most effective when the message is "hand-written" to increase warmth. However, the message is necessarily limited to only a few words and cannot convey the amount of information that a letter can.

Imitation "telegrams" look distinctive and important. They should be designed to look like telegrams and written in telegram-like prose, with short, almost choppy sentences:

**"URGENT YOU VOTE FOR REP. JONES.  
POLLS SHOW ELECTION CLOSE. EVERY  
VOTE CRUCIAL!"**

Direct mail letters, however, offer the most space for delivering the longer messages that are often necessary for effective persuasion. Because the mail is from the Association, not a candidate, most members will open their mail even late in a campaign. Some proven tips to help you get your message across are given below.

## PREPARING DIRECT MAIL MATERIALS

A good direct mail packet has at least three components: a carrier envelope, the letter, and an enclosure. Using direct mail for fundraising and "grass-roots" action also follows these guidelines and would include a reply card and reply envelope in the packet.

The carrier envelope is the outgoing cover envelope and the first thing the recipient sees. Getting the recipient to open the letter is the first step to direct mail success. Designing the carrier envelope or mailing panel is very important. Here are some tips:

1. Use a standard number 10 business envelope; it will be big enough to hold all the materials. Your regular Association envelope is fine.
2. Add a "teaser" message, preferably in handwriting or using a rubber stamp facsimile in red ink, along the lines of "The enemies of public education hope you won't read this letter . . .", "Postmaster: Please Expedite" or "Important Voter Information Enclosed."
3. Research shows a first class *stamp* increases the likelihood that a letter will be opened. However, using the Association's non-profit bulk rate permit is almost certainly the most cost effective approach. A postage meter imprint will appear more "warm" than the pre-printed, boxed "US Postage Paid" bulk rate imprint often associated with "junk" mail.
4. Since you will probably be using computer generated mailing labels, try to make sure the label color blends into the carrier envelope color. Also, try to generate labels without unnecessary account numbers, carrier route numbers, etc. The idea is to make the name and address look as personal as possible.
5. Chances are good that your Association already has a valid bulk rate permit. However, check with the U.S. Post Office well in advance of your campaign to become fully aware of all regulations governing the use of your permit such as cost, delivery time, labeling, sorting, etc.

## POSTING

Delivery of messages through posting includes putting messages on bulletin boards or walls, and using posters, buttons, billboards, car tops, bumper stickers, yard signs, etc.

They all have this in common: their effectiveness is hit-or-miss, and depends almost entirely on location. They are only effective if they are seen by the people you are trying to reach.

For yard signs, car tops, and bumper stickers, make sure you can get commitments from the necessary number of people to put them to use. Billboards are generally leased through an outdoor advertising firm, usually on a monthly basis.

And, of course, before posting political materials, familiarize yourself with applicable contract clauses, and state and federal laws and regulations. Please read "Print Communications and the Law," beginning on page 27.

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# Choosing and Using the Best Vehicle

When deciding which type of printed material to use, take the following factors into consideration.

1. The message: how much must be said?

This, in turn, depends somewhat on the answers to these questions: Is the candidate or issue known or unknown? Is it early or late in the campaign?

For instance, if the candidate is unknown or if it's early in the campaign and the issues have not been clearly defined, you'll probably need to say more and should consider producing a brochure rather than a leaflet.

2. The method of distribution: handout or school mailbox? Mailed? Mailed alone? In an envelope? In an envelope with other material?

Leaflets, for example, are most effective when handed out in person. Brochures can be mailed alone or with other material in a number 10 envelope. Brochures or tabloids can easily be designed as self-mailers.

3. What other materials and communication techniques are being used?

For instance, if your candidate's own campaign operation is publishing a tabloid, prepare and distribute a brochure so that Association material is easily distinguishable. If the Association is planning an evening phone bank, consider handing out a leaflet that afternoon alerting members that they will be called.

4. Available funds: how much money is available?

Leaflets are generally the cheapest format to produce, and booklets are, in most cases, the most expensive.

5. What rules, regulations or laws apply?

For example, bumper stickers and leaflets are regulated by different sets of requirements, and these requirements affect their cost and usefulness. Please see "Print

Communications and the Law" on page 27.

Descriptions of the most commonly used types of printed matter follow.

## LEAFLETS

Usually leaflets or flyers consist of one sheet of paper, 8 1/2 by 11 inches, or 8 1/2 by 14 inches, printed on one side.

They are most effective when given out personally because they can be used as conversation starters, or given to members after one-on-one conversations as reminders of the Association's positions. Also, they are often distributed by being left in members' mailboxes at school.



This series of leaflets was produced by the Arizona Education Association for an organizational campaign following defeat of a statewide proposition. They use simple headlines, explore one issue per leaflet, and can be used as posters. An added touch: they each have their own reply mechanism.

By their very nature, they convey a sense of urgency. They're great for reporting late-breaking events or for last minute calls to vote.

Leaflets are the easiest type of printed format to read—you can get the message at a glance, without turning any pages.

They are the cheapest and quickest type of literature to produce, and can be designed, written, typed, made-up and printed without the services of professionals. However, consider this:

Professional typesetting and quality printing will always greatly improve the appearance of "home made" leaflets.

If distributing a series of leaflets on a limited budget, design a masthead, organization identification line, and, perhaps, an attractive border. Have these printed professionally, preferably in colored ink. Print a large quantity.

Then, produce each leaflet, inserting the new headlines, text and graphics in your preprinted page. Run the preprinted page through a mimeograph or photocopying machine when necessary.

The main disadvantages of using a leaflet are:

Space is limited. Leaflets can effectively present only one or two headlines, maybe one illustration, and just a small amount of text.

They are good for only one idea per leaflet. Design possibilities are limited.

## BROCHURES

Brochures are commonly printed on an 8½ inch by 11 inch or 8½ inch by 14 inch sheet and folded in a variety of ways.



Brochures can be folded into a number of panels: two-fold, tri-fold, four-fold, and quarter-fold for example. Brochures pictured here were produced by the Washington Education Association and the West Virginia Education Association. (For a closer look at the WEA two-fold brochure, see Appendix.)



Sometimes, a special purpose calls for a special design. Shown here is a five-fold brochure developed by the Teachers Association of Baltimore County to encourage support for all their endorsed candidates for the House of Delegates. Each panel shows a different candidate.

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They can be made to fit into a number 10 envelope or they can be designed as self-mailers. Self-mailer brochures leave a panel free for a mailing and return address. Experience has shown, however, that enclosing the brochure in an envelope, particularly with a letter or note, is especially effective.

The brochure's strength is versatility. It can be used as a handout, direct mail piece, or mailbox stuffer. It easily fits into pockets or handbags.

The folding creates a series of distinct panels, which can be used creatively. Each panel provides an opportunity to present ideas, so brochures can accommodate more material than leaflets.

Here are some tips for designing exciting brochures:

1. Think carefully about how the reader will unfold the brochure and how each panel will relate to the others.

Write and position the headlines and copy so that each panel flows naturally with the other panels that are visible at the same time—as the brochure unfolds, so should the story.

2. Although most brochures are folded to produce vertical panels, they don't have to be. You can:

Produce a brochure that unfolds into horizontal panels.

Create a piece that unfolds into a mini-poster, rather than into panels.

The brochure's disadvantages are that it is harder to produce, takes longer to create, and is more expensive than a leaflet.

## TABLOIDS

Tabloids are a familiar format since many local newspapers are tabloids. A tabloid is usually printed on newsprint paper, approximately 16 inches by 22 inches, which is then folded to produce the four pages 11 inches by 16 inches.



The West Virginia Education Association produced a tabloid for each of four congressional districts. The mailing cover and back page endorsing the Senate candidate were common to each. This saved money on production and printing. The inside pages were customized for each congressional district and the state legislative districts within it. Where possible the congressional campaign's logo or typestyle was used for the endorsement. (For a closer look at one of these tabloids, see Appendix.)

Like a newspaper, it can accommodate several different headlines and stories when necessary. The stories can be relatively in-depth because of the larger amount of type that a tabloid accommodates. Tabloids can also effectively handle large photos and large headlines.

Tabloids are so large they are hard to ignore.

Here are some thoughts about producing dynamic tabloids:

1. Some people prefer to print their tabloids on newsprint paper, which can help convey a sense of newsworthiness or urgency.



Others prefer heavier offset paper, which is often less expensive, allows for sharper photographs, clearer printing, and is less likely to smear or smudge.

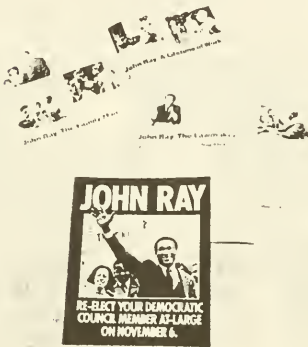
2. Use lots of photos, white space, big type and headlines.
3. If doing a statewide mailing, produce a tabloid that includes the same two outside pages for everybody, but inside pages customized for each area.

The disadvantages of using the tabloid format are that it is relatively expensive to produce and requires readers to expend some effort.

Many experts agree that if there is money for more than a leaflet and brochure, produce a tabloid. It's good for reinforcing, rather than introducing, a subject or a candidate; and, because it is hard to ignore, it can help reach people who have not paid attention to your other political material.

## BOOKLETS

Generally, these are 12 to 16 pages, with widely varying dimensions.



Booklets differ from brochures in that they are bound with staples, stitching or glue in the "saddle" or fold. In this example, the cover headlines deliver the key message, ensuring that even if the reader never opens the booklet, it has been at least partially effective. Note also the use of an action photo of the candidate.

They are the most expensive type of printed piece to produce.

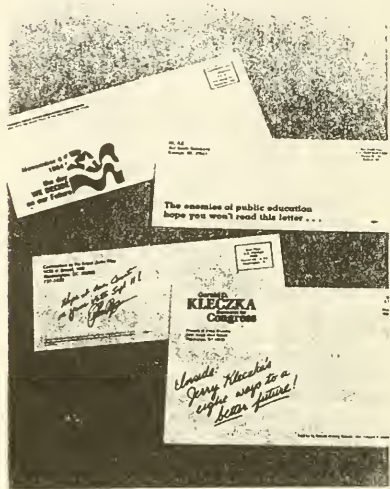
The advantages of using a booklet include the ability to pack in a lot of information and people might keep it to read later.

The disadvantage, aside from expense, is that it takes the most reader effort.

If the booklet format is used, be creative with the design. It doesn't have to have the formal look of a book.

## LETTERS

Letters are an effective means for political communications. They can be "warm" and personal. And they can convey a lot of information. How a letter is written and produced is obviously crucial. For further discussion of letters and direct mail, see pages six, seven, and 12.



Direct mail cover envelopes should employ gimmicks like "teasers" to make sure the recipient opens and reads the letter. The Pennsylvania State Education Association used a flag logo with typeset copy, but "handwritten" copy on the cover is effective as well. (The Appendix contains a sample direct mail letter.)

## LETTERS THAT WORK

1. Make sure each page has plenty of white space—use wide margins, indented paragraphs, space-and-a-half between lines with three spaces between paragraphs.
2. Keep the paragraphs short—never more than five or six lines. Use plenty of shorter paragraphs as well.
3. Use a three to four page letter. Although it may be hard to believe, **research consistently shows that longer letters are more effective**. Remember, also, that if the letter was typed in a strict business letter format it would be much shorter.
4. Underline key points. And consider using “handwritten” comments in the margin.
5. Use at least two colors: black for the typewritten copy and blue for the letterhead and signature.
6. Have an Association officer or other respected member sign the letter. Be sure to use a felt tip pen for any handwriting in the letter. Handwriting produced with a felt tipped pen will appear more real when printed.
7. Computer generated personalized salutations on the letter increases the “warmth.”\* However, if it adds more than a couple of cents per letter to the production costs, it probably is not cost-effective. Instead, use a salutation that’s directed at a single individual, such as “Dear Colleague.” **Never** use plural salutations.  
 \*NEA has direct mail capabilities to assist you. Laser-printed letters (which give the appearance of having been individually typeset), mailing labels, and preprinted typewritten letters are among the services available. Contact your UniServ or appropriate state Association staff person for assistance.
8. Use personal pronouns as much as possible (“Both you and I know . . .”) and active tense verbs (“Rep. Jones is **fighting** for quality education,” instead of “quality education is **supported by Rep. Jones**”).
9. Use an attention grabbing lead sentence which strikes a responsive chord. For years the Republicans used “Won’t you help me slash your taxes by one-third?”
10. Then discuss areas of common interest. Move into the problems facing public education, other key issues and why the endorsed candidate will be more effective than the opponent.
11. Provide the solution: voting for the candidate and encouraging friends to do so as well.
12. At the end, summarize the message in three or four paragraphs, explaining why voting for the candidate is important.
13. Always conclude with a “handwritten” P.S. Nearly everybody will read it and it’s just the kind of final touch that can reinforce the entire message.
14. Be sure to tell the full story in the letter. Even if there is a brochure enclosed, do not rely on the reader to refer to it for important information. Don’t hesitate to repeat it in the letter.
15. Enclosures such as brochures or fact sheets are important because they reinforce the information conveyed and help increase the credibility of the entire mailing.
16. To build Association visibility, the name of your Association should be prominent throughout your letter. Woven into its message should be descriptions of how your Association is vigorously pursuing programs that aid quality education and that support the interests of its members. Readers should be reminded that their Association is strong and effective, and all letters should encourage expanded membership participation in the political activities of the Association.
17. Again, be aware of all the legal requirements involved. (See “Print Communications and the Law,” p. 27.)

## POSTCARDS

Postcards with brief messages can be an extremely effective method for building name recognition of your candidate or awareness of your position, and are also excellent as last-minute reminders to vote or to take other action.



Postcards can be typeset or "handwritten." Since the message must be short, they lend themselves to use as reminders or thank you notes. These samples were produced by the Maryland State Teachers Association and Kentucky Education Association.

They are cheap and easy to produce.

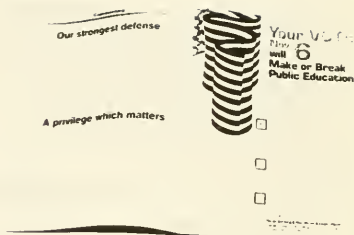
For further discussion of use of postcards, see the section on distribution through direct mail, page six.

## ASSOCIATION PUBLICATIONS

Association publications are widely read by members and can be effectively used to build support for an endorsed candidate.

But it is not enough to just run articles reporting an endorsed candidate's activities. The content of the articles should help explain why the Association has endorsed the candidate, and should report concrete examples of the candidate's work on behalf of quality education.

Articles should be persuasive, and should aim at encouraging members to support endorsed candidates.



Display ads or articles in Association publications are an important medium for political communications. Articles can follow the standards you've set for these publications, but display ads should stand out. The New Jersey Education Association printed this display ad in their monthly NJEA Review.

You might also print articles explaining your Association's endorsement procedure. Stress that the procedure includes a thorough examination of the candidate's qualifications, abilities and record. Explain that the opinions of members are sought and encouraged. By printing such articles, you'll help members better understand how their Association works, and you'll add to the credibility of your endorsed candidate.

Also, you can design "advertisements" supporting candidates to be inserted or printed in your publication. These ads have proven impact.

Be sure the information conveyed in your publications is consistent with the information conveyed by your other communication efforts and by the candidates' campaign.

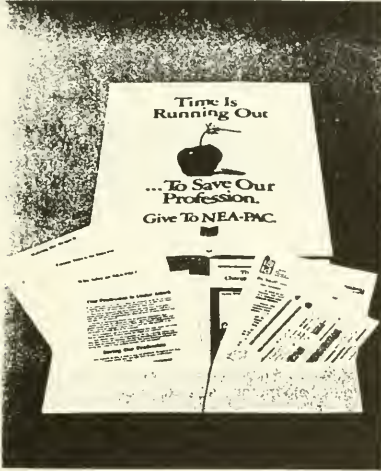
**Please note:** under federal regulations, if you devote more than 50 percent of your Association's newsletter to partisan political communications, you will then have to report all of the costs involved.

For further discussion of federal election regulations affecting the use of Association publications in political campaigns, see "Print Communications and the Law," p. 27.

## INFORMATION KITS

It is often desirable to give some individuals in-depth information that goes beyond the basics. For example, arming Association activists with a wide variety of supporting material will build their confidence and make them more knowledgeable.

If you have several different pieces of printed material to distribute at the same time, you might consider preparing an information kit.



The Indiana State Teachers Association produced this kit for use by their activists in a NEA-PAC fundraising drive. The poster design was used for the portfolio cover, and the "Time is Running Out" theme was reiterated throughout the kit, keeping the message consistent.

The kit can consist of a portfolio or envelope and be printed with your logo or campaign theme if your budget permits.

Materials in the kit can include:

- Instructions to the activist, especially if a one-on-one solicitation or telephone operation.
- A sample speech for use before meetings. If the issue is complex, consider including prepared overhead projector transparencies keyed to the speech.

- Sample stories or display ads for use in local publications.
- Background information on the issue or candidate.
- Forms needed to keep track of progress or lists of the members that need contacting.

Essentially, the better informed and prepared your leaders and activists are, the more persuasive they will be with their message. A thorough, well-organized kit can really help your activists do their jobs.

## POSTERS

Posters are effective awareness builders rather than persuaders. They're useful because teachers often post them for extended periods of time in offices and lounges, if allowed.

The effectiveness of a poster depends entirely on its graphics.



An original illustration was used by the Nevada State Education Association for its "TIP" (Teachers in Politics) campaign poster. A good poster uses an effective visual rather than text to deliver its message.

A good poster usually consists of no more than a photo or illustration, a headline, and, sometimes, a subhead. It must be professionally printed, but generally you will be responsible for the design.

## PALM CARDS

Simple to produce, but in an election campaign, their use is normally limited to election-day hand distribution. They are generally given to people about to enter a polling place to remind them of your position and give information about how to support it.




Palm cards or announcement cards are effective when distributed on or immediately prior to election day. They should give the member clear instructions on how to vote for endorsed candidates. The Fairfax Education Association produced a palm card using a reproduction of the official ballot with the endorsed candidates highlighted.

Design palm cards like you would any other piece of printed material. Make sure the information is attractive and readable. If done well, people will keep palm cards for later reference.

Before using palm cards, be sure you know the laws and regulations that apply. (See "Print Communications and the Law," p. 27.)

## BUTTONS AND BUMPER STICKERS

These items have the following in common: they cannot persuade, but can build name recognition; their effectiveness depends on the brevity and, sometimes, "catchiness" of the message; and forcefulness of the design.

My  is in Public Schools.  
So are my Children.

The North Carolina Association of Educators and NEA-New Mexico equipped their volunteers with buttons to help build identification and enthusiasm. Button and bumper sticker messages should be kept short: just a name or a slogan. They can accomplish awareness and identification; they should not attempt persuasion.

Remember, bumper stickers are effective only when they are readable. Use heavy type and colors that stand out.

Both are relatively cheap to produce, and if the Association's name is featured prominently, can build Association visibility. But unless they are used—actually worn or stuck on bumpers—their cost per viewer contact is rather high.

Buttons have one subsidiary advantage: they identify the wearer to co-workers as someone "in the know"—someone who knows the answers to questions or can find them.

Again, check the laws and regulations governing the use of bumper stickers before using them in a campaign. (See "Print Communications and the Law," p. 27.)



## OUTDOOR ADVERTISING

Like buttons and bumper stickers, billboards, car tops, and yard signs cannot persuade, but can reinforce and remind.

They are relatively cheap to produce, but if a campaign is being restricted to reaching members, outdoor advertising might be like hitting a tack with a sledgehammer.

In designing them, remember they must be simple. Viewers speed by billboards and yard signs at 35 mph or faster. And car top signs whiz by the viewer.

There are three important factors that determine the effectiveness of billboards: location, location, location. (See "Print Communications and the Law," p. 27.)

## NEWSPAPER ADS

In efforts aimed at communicating with members, the cost of placing ads in commercial news-

papers generally outweighs their effectiveness because you are trying to reach a relatively small number of people living in a relatively wide area. You have no assurance that members will see, let alone be influenced by, an ad.

See page 27, "Print Communications and the Law," for a description of federal regulations that could apply to the Association's use of ads.

## NOVELTIES

Only if your campaign is massive and well financed should you consider the use of give-aways such as fountain pens or coffee cups. Their only advantage is that people might keep them around, so they become reminders. They are expensive to produce and are not persuaders.

If your finances allow for printed materials or novelties, go with printed materials every time.

# Writing, Design and Production

## THE MESSAGE

The first step in preparing any piece is to develop your message. Begin by breaking your message into its composite parts.

For example, let's say you are planning a piece in support of the re-election of Representative Helen Jones. She has been in office for fourteen years. During that time, she worked for the creation of the Department of Education and has helped defend it against elimination. Now she is consistently voting against cuts in federal funds for education and is an outspoken critic of schemes to create tax tuition credits for private schools. She faces tough opposition.

The general message might be: Rep. Jones has been a good friend of education and now needs our support.

Broken down into parts, it becomes:

1. Rep. Jones is a proven friend of education.
2. Now Rep. Jones needs our help.

## WINNING THE READER'S ATTENTION

As a communicator through print, you have three main goals: guiding the reader's eyes directly to your key message; encouraging readers to read your piece thoroughly; and presenting your message in a persuasive, compelling manner.

The tools you will use to accomplish these are:

1. Design and type
2. Headlines and subheads
3. Photos and illustrations
4. Writing

These tools are used somewhat differently in each type of format. For example, typesetting makes most types of material look better, but a typewritten direct mail letter is better than a typeset one. However, some rules of thumb which generally apply to each tool are discussed below.

### Design and Type

The way a printed piece looks is as important as what it says. In fact, it can be more important. A dull looking piece or page that's hard to read will turn off your readers before they turn their attention to your message.

The way you design your piece will determine how the reader moves through it. A bold headline surrounded by white space, for example, will be read first. A bold capital letter used at the beginning of the text will help draw the reader's attention from the headline into the text.

To get design ideas, carefully look at page designs and ads in national magazines. Madison Avenue comes up with some excellent ideas that can be imitated easily. Also read "Preparing Material for Reproduction" beginning on page 21.

The elements of all page designs are:

- **White space**—blank spaces surrounding headlines, graphics or text.

Space around headlines draws the reader's attention.

Short paragraphs with extra space between them and wide margins produce white space that makes for easy reading.

Using ragged right or justified text will affect the amount of white space in the finished piece. Ragged right text gives a more open, informal feel as shown in the following example.

### Ragged right text:

New federal regulations inspired by radical right-wing critics of the public schools endanger our academic freedom to teach and our students' freedom to learn. The new Hatch Act regulations give these extremists the ability to censor materials and texts used in your classroom.

### Justified text:

New federal regulations inspired by radical right-wing critics of the public schools endanger our academic freedom to teach and our students' freedom to learn. The new Hatch Act regulations give these extremists the ability to censor materials and texts used in your classroom.

- **Bold and large type**—headlines and subheads which guide the readers' eyes to your important points.

- **Type style**—the “look” of printed letters conveys its own message. This is particularly true for headline type. Some type styles say “action” or “progress.” Some say “solidity” and “stability.” Choose a type style that’s appropriate.

## ACTION

The way type looks can convey messages. For example, a type style like Raleigh Demibold (above left) implies action while Times Roman bold italic (above right) has a sense of tradition.

Choose a type style for your headlines first. Then choose type for your text that looks good with your headlines as shown below.

### Choosing Compatible Type Is Important

The type combination chosen for this headline and body copy look good together, while the combination below doesn’t really work.

### Choosing Compatible Type Is Important

The type combination chosen for this headline and body copy do not look good together, while the combination above works much better.

Printers and typesetters measure type in “points.” (See the following examples.)

**36 Points**

**24 Points**

**18 Points**

**12 Points**

**10 Points**

Never use body type smaller than 10 points (a little less than  $\frac{1}{8}$ th of an inch). Choose a style that’s easy to read.

## Tradition

- **Color**—like type style, colors have different personalities. Studies have shown that blue connotes leadership, red indicates aggression and passion, and green means youth and change.
- **Boxes, shading, rules, large initial letters, or stylized letters** can help guide the reader’s eye.

**T**o catch the reader’s eye, you can box a block of type, shade the text, use a large initial letter, or a combination of these methods. Large initial capitals called “rubrics” can help draw the reader’s eye to where you want reading to begin.

- **Photos and drawings**—especially action packed ones.

Some “don’ts”:

- Don’t separate the headline from the text with a graphic. The reader’s eyes might stop at the picture and not go on.
- Don’t put too much space between a headline and its associated text. Again, readers might not continue on to the text.
- Don’t let headlines compete with pictures for attention.
- Don’t place two headlines side by side.
- Don’t use too many boxes, rules, large initial capital letters, etc., in a single piece. The design will be too “busy.”

## Headlines and Subheads

Once you’ve broken up your message into one major and several subsidiary points, phrase them succinctly to fit into the space allotted for them in your page design. They will be the headlines and subheads that summarize your message, and will help your piece survive the “twelve-second scan” as explained on page five.

Getting back to the case of Representative Jones, our broken apart message might be translated into headlines such as:

“Helen Jones.  
Education’s Friend in Congress.”

Your subheads might be:

- “Helen Jones is an important friend of education.”
- “Now Helen Jones is under attack!”
- “On November 2, vote for Helen Jones.”

To write effective headlines and subheads, remember:

1. Keep them fairly short; from three to 12 words.
2. Use simple language.
3. Use descriptive, action-packed words, for example:  
Rep. Jones: Fighting for Education  
Jones' Bill Would Raise Your Salary  
Arkansas Teachers Need Jones!
4. Write subheads which, if read together without the text, tell the story.
5. Use headlines at the beginning of a piece to convey information, and at the end of a piece to call for action.
6. Accuracy is more important than cleverness.
7. Consider using different colors for subheads and text.

## Photos and Illustrations

One photograph is worth a thousand words, but a poor one can do even more damage.

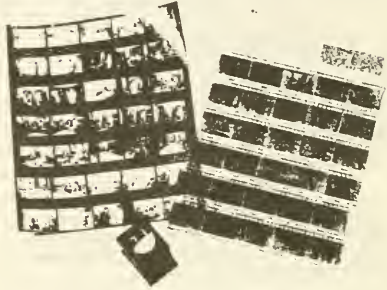
Unless the candidate you are supporting supplies action-packed photos, it may be worth the effort to take your own. Get pictures showing the candidate with Association members that demonstrate the candidate's concern about public education.

Here are some tips on taking effective photographs:

1. Avoid pictures that look posed, especially where your subject is simply grinning at the camera. Every photo should tell a story, not just show a face. If you must pose a picture, have the subject doing something as pictured in the example on page 20.
2. Shoot black and white film. Color photographs do not reproduce very well in black ink, and it costs a great deal extra to print a photo in color.
3. If you print your piece in a color other than black, it may be worthwhile to spend a few extra dollars to reproduce the photos in black ink; they generally look sharper.
4. When professional photographers shoot, they don't aim to take a few perfect pictures. They take dozens of photos in the hope of getting one or two good ones. Do the same thing. Shoot several rolls of film, even if you need only two or three photos.
5. When taking a series of photos of the same candidate, consider taking along different

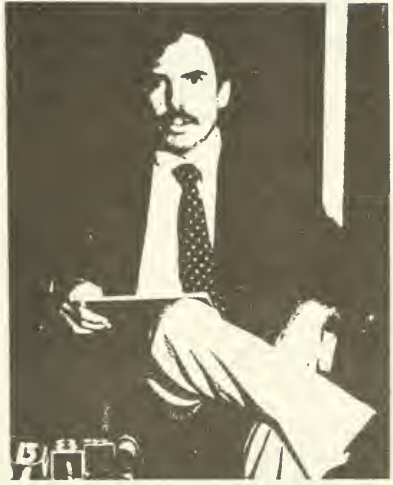
blouses or shirts and ties. That way, the candidate will not be wearing the same thing in all the shots.

6. Order "contact sheets" from your photo lab, not prints. "Contacts" are sheets of photographic paper on which the images of negatives have been directly transferred without being enlarged, and they are much cheaper. You can choose the shots you like, and print only those.



To make sure you end up with effective photos, shoot several rolls of film and choose the best shots. Order "contact sheets" (above, left) from your photo lab. They are sheets of photographic paper on which images of negatives (above, right) have been directly transferred without being enlarged. They are much cheaper than prints. Using a "lupe" type magnifying glass (above, center) you can choose the shots you like, and print only those.

7. Be sure the subjects in your photographs reflect the demographics of your membership. For example, show older as well as younger members, men and women, whites and minorities.
8. Sometimes pictures can be "cropped," or cut, to produce more effective illustrations as demonstrated on page 20.

**WRONG****RIGHT**

"Cropping" a photograph means marking a new edge for it, so when it's reproduced, things that you deem extraneous are left out. Cropping can make a photo's message clearer. The photo on the right has been cropped correctly.

Some tips on cartoons and graphs:

1. Cartoons should be simple and their message should be self-evident at a glance. Because most cartoons and clip art used tend to be ineffective, be very cautious about using them.
2. Any graph can be livened up by the use of symbols which not only present the measurements the graph is conveying, but which also illustrate the point the graph is trying to make. Flat bar graphs can be deadly. Use your imagination to come up with alternatives.

**Writing**

Your headlines and subheads, derived from your message, can serve as an outline for your text. Write your text to document its associated headlines and subheads.

Write tight. Avoid unnecessary words and phrases.

**Instead of:**

the month of November  
at that point in time  
at the present time  
in order to vote  
so that he could vote  
in close proximity  
remember in the past

Write clearly and simply.

Get right to the point; say what you have to say, and then stop.

As a general rule, use the active voice.

**Use:**

He won passage of a law.  
We need better representation.  
He supports increased funding.

**Write:**

November  
then  
now  
to vote  
to vote  
near  
remember

**Instead of:**

A law was passed by him.  
Better representation is needed.  
Increased funding is one of his priorities.



Use descriptive, action packed words.

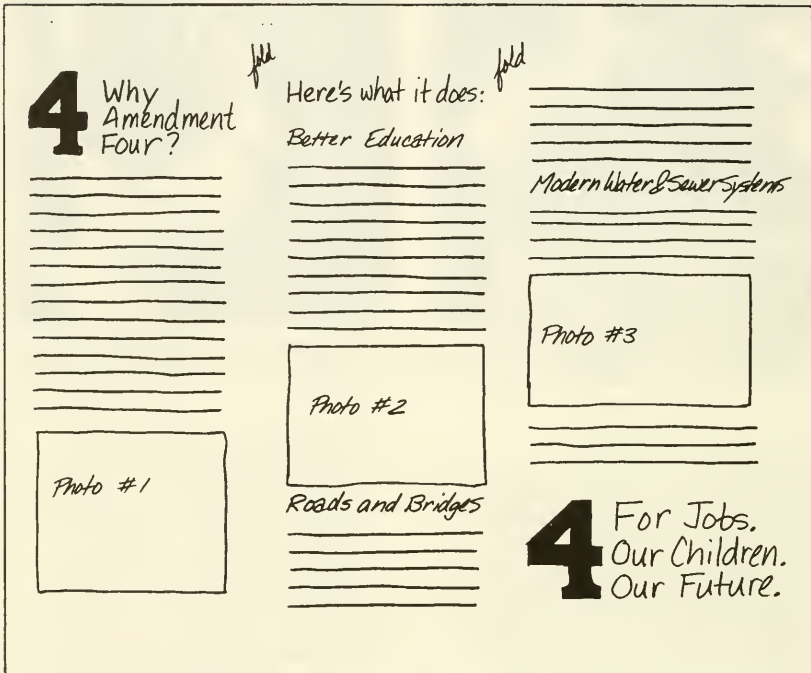
For example, saying "Rep. Jones is **fighting** for increased federal aid to education," sounds more dynamic and exciting than "Rep. Jones supports increased federal aid to education."

Other effective descriptive words include: "believes," "is battling," "is committed to," "knows," "demands," "wants," "has pledged"—and there are many more.

As we discussed in "Letters That Work" on page 12, whenever possible, give prominence to the name of your Association and its programs, goals and achievements to build Association visibility.

### Preparing Material For Reproduction

Start by drawing a rough sketch of your design as shown below.



Drawing a rough sketch of your page design can help determine the length of your written pieces and size of your photos.

Cut out squares and rectangles that are roughly the size of the headlines and subheads, photos and illustrations, and blocks of text indicated in your sketch. Now you'll be able to arrange the elements of your piece until you are satisfied with their placement.

Decide during this stage how much space and emphasis to give each element. Bear in mind that your design may need to be modified as it progresses.

The following are some additional tips for preparing material for reproduction:

- **Based on your design, write the copy to fit.**

Measure the length and width of the areas reserved for text.

Multiply your column length (measured by number of lines in the chosen spacing) by your column width (measured in picas). Multiply the result by the number of characters per pica in your chosen type style and size (the typesetter can provide you with this information). The result is the number of characters, including spaces and punctuation, which can be written for that block of copy.

Divide this figure by the number of lines in the column. You now have the average number of characters per line.

Set the typewriter margins for the number of characters per line. If no more than the required number of lines are typed, the writing should fit your page design almost exactly.

Remember that you will have space at the end of paragraphs and perhaps extra space between them.

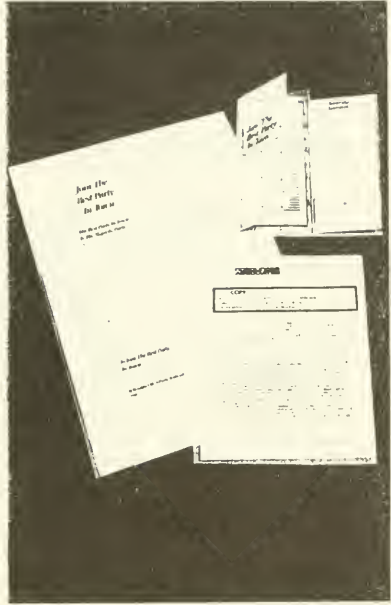
- **Get photos and graphics that serve your purposes.**

You may have to make do with the photos that are available. Make the best of it by careful selection and artful cropping.

If you are having photos taken, remember professional photographers don't set out to take a few good pictures, rather a lot of pictures. Do the same; then have contact sheets made and choose the ones you want made into prints.

- **Preparing your copy for the printer.**

Once you have your text written, mark it up for typesetting and printing. Indicate size, bold or italic text, extra space where you want it.



Giving your printer clear instructions helps ensure a high quality finished piece. Shown, above, clockwise are three steps in the process of communicating with a printer: the original copy, on which the customer has indicated the styles and sizes of print type desired; the "galley proof" set by the printer, on which the customer will indicate any changes needed; and a sketch of the printed piece which tells the printer where to place copy and graphics.

- **Proofreading and paste-up.**

Your printer or typesetter probably will provide "galley proofs" of your text. These are copies of the actual typeset material. Proofread the galleys thoroughly.

The "specs": type style is Garamond Light, 11 points with 12 points of leading, set ragged right in a 17 pica measure.

*GARAMOND LIGHT, 11/12 X 17 RAGGED RT.*

Headlines set in 30 point bold italics, centered in the measure

More than ever before,  
Education is under attack.  
Helen Jones will  
help us fight back!

} 30 pt **IL**

Two extra lines of space between the headlines and the body copy.

**# #**

This text is bold.

We need to keep Helen Jones in Congress. In Washington, education is under attack. Cutbacks in federal funding, tuition tax credits, and the

Delete "the".

proposed abolition of the Department of Education all threaten ~~the~~ education in Arkansas.

An extra 4 points of leading.

+4 >

Indent two spaces.

□ During her ten years in Congress, Helen Jones has consistently supported quality public education.

Transpose these words.

Before that, was she a friend of teachers and ~~was~~ **STET**

"STET" means leave this text as it was.

students in the Arkansas general Assembly. She's

Capitalize the "g".

earned our support.

An extra 4 points of leading.

+4 >

Indent two spaces.

□ This year, Helen is facing a Republican ~~opponent~~ **L.C.**

who will spend half a million dollars trying to beat her. Helen is a Representative we can't afford to

Drop the "O" to lower case.

lose!

Italicize this text.

Before sending copy to the printers, it must be proofread and "marked up." Marking up copy means noting the type specifications, or "specs," your proofreading changes, and any changes in type or spacing. Shown above are the standard mark-up notations.

You also can use the galleys to do a rough paste-up. Cut the headlines and copy blocks out and place them where you want on a properly sized piece of paper. Sketch in your photos, boxes, lines, and shaded area. Your printer will then have a precise model of how you want your finished product.

Always get "blue line," or a final proof, from your printer before your piece goes to press. Examine the proof carefully. Does it look and fold like you expected? Is the type clean and sharp? Are the photos printed clearly?

- **Color selection.**

If you are printing in color, be sure to select colors carefully. (See "Color," p. 18.) Your printer probably uses a commercial color selection system such as the Pantone Matching (or PMS) system. In this system, each color and shade is given a reference number.



Carefully look over the "page proofs" sent by your printer to correct any errors. The page proof shown above left is marked to indicate positions of photographs and colors of ink. The final printed piece is shown above right.

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Once you have chosen your colors, specify them by number—not just "blue," but "PMS 287 blue."

- **Union Printers and the Union "Bug."**

If you use professional printers and/or typesetters, it is most often a good idea to use union shops. Be sure to ask that the union label or "bug" be printed on your piece where it can be seen, usually at the bottom of the last page.

## Preparing Material for In-house Production

If, instead of using a professional typesetter and printer, you are reproducing your printed piece on an Association mimeograph machine or photocopier, you'll need to take extra care in preparing your material to get "professional" results.

Getting material ready for printing is called the "make-up" process. To make your job easier—and your final product better—you should consider purchasing some make-up aids such as:



Shown above are some of the graphic "tools of the trade": a T-square for measuring straightness; an X-acto knife for cutting paper; a proportion wheel to help you quickly measure enlargements and reductions; and a Pantone Matching System (PMS) guide, which helps you choose ink colors.

- A **ruler** which measures in picas (a printer's measure) as well as in inches.
- A **proportion wheel** which helps you to quickly determine how much a photo or illustration must be enlarged or reduced to fit the space allotted to it in your rough sketch. Directions for use are printed on the wheel.
- A **waxer**, which takes the place of cellophane tape, rubber cement, and glue or glue sticks. It coats the back of items to be pasted up with a thin layer of melted wax. The items then stick lightly to the page and can be moved around. When an item is positioned correctly, press it down and it will remain in place permanently.
- **Non-reproducible blue pencils**, which can be used for drawing lines that will not show up when the material is photocopied.
- A **T-square, triangle, and board with a straight edge**, used to make sure all items are pasted on straight.

You might also purchase some tools that, when used creatively, will help you produce more attractive pieces:

- **Dry transfer lettering or "presstype."** Sold on clear sheets, these sets of headline type come in a wide variety of styles and sizes. Just place a letter where you want it on the page, and rub it off with the eraser end of a pencil or with a specially-designed burnisher stick.
- **Decorative tape.** This is cellophane tape imprinted with designs that can be used to create attractive boxes, rules or lines.
- **Shading films.** You can buy gray self-stick screens in various shades for highlighting boxes of text or parts of line drawings.

Examples of these items are illustrated on the right

On the next page some additional in-house production tips are provided.



**Shading films:**  
20%  
30%



☆☆☆☆☆☆☆☆ Decorative tape:



**Letraset** *instant lettering*

ääääääää  
 ààààààààà

Pressure sensitive lettering sheet:



## IN-HOUSE PRODUCTION TIPS

Here are some suggestions for producing the best possible pieces in-house, without the use of professional typesetters or printers:

**Typewriter Tips**—If your typed page is to be used as the original for reproduction, make sure your keys are clean. It's best to use a carbon ribbon in an electric typewriter. If an ink-type ribbon is used, get a new one.

If your typewriter is not giving you sharp print, place a piece of carbon paper shiny side up behind your typing paper to get an image on the back of the paper. When the typing paper is photocopied or the image electrically transferred to a multilith stencil, the print will appear sharper.

**Color Suggestions**—Use white paper and black or red ink. They are the only colors that reproduce sharply on photocopiers or electrostencil machines.

**Using Clippings**—Newspaper or magazine clips will not reproduce sharply unless they are crisp and clean. Photos cut from newspapers or magazines will not reproduce well unless they are black and white.

**Reproducing Photographs**—"Glossy" photos, the most common type of photo print, reproduce poorly on photocopiers or electrostencil machines. It pays to get a professional lab to create a velox, or screened print, from your glossy. The result will be worth the extra expense.

Color photographs reproduce poorly on mimeographs and photocopiers and are not worth the trouble.

**Eliminating Unwanted Marks**—Use white correction fluid, available at most stationery shops, to "white out" smears, smudges and stray lines.

Photocopied pieces are often plagued by unwanted shadow lines where items are pasted on the original. There are three ways to eliminate and prevent these lines:

- Before photocopying, tape the edges of all pasted-up items to the original with Scotch "Magic" tape (the type with one dull side).
- Put correction fluid around the edges of all items pasted up.
- Photocopy, then "white out" all unwanted marks. Use this as your original for reproducing all other copies.

# Print Communications and the Law

Always keep possible legal requirements in mind when planning your political communications. Remember, federal law applies to your activities on behalf of candidates for federal office, while state law governs activities on behalf of state and local candidates.

Obviously, discussing all 50 state campaign laws is well beyond the scope of this manual. However, the following sections briefly discuss federal law. When in doubt, always contact either your state Association or the appropriate NEA Regional Office for advice.

## POLITICAL ACTIVITY

Your communication must expressly advocate the election or defeat of a candidate for federal office before federal election laws apply.

You can invite office holders to speak before your Association, report on office holders' public education efforts in your publications, or even conduct non-partisan voter registration drives with Association members without election law concerns.

When you specifically endorse or oppose a candidate or political party, federal election law is triggered.

## PARTISAN ACTIVITY

Federal election law prohibits the Association from contributing "anything of value" to a candidate for federal office. This includes money, supplies, or even the reimbursed use of your telephones. Only contributions from NEA-PAC can be used.

Association funds and resources can, however, be used to communicate partisan messages to your members and their immediate families. But these messages must not reach beyond the membership. For example:

- You may not advocate the election or defeat of a candidate in your Association newsletter if more than 10% of the recipients, including complimentary subscriptions, are non-members.
- Bumper stickers, billboards, radio or newspaper ads are all communications beyond your membership and must be paid for by federal PAC funds and otherwise comply with federal law.
- Telephone calls to members or Association-prepared materials mailed directly to members' homes can be paid for from Association resources.

However, you have to report to the Federal Election Commission the costs of permitted partisan membership communications when:

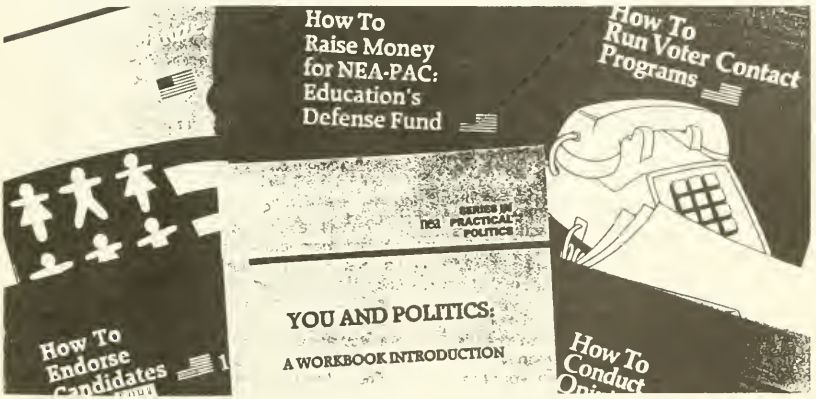
- you expressly advocate the election or defeat of a clearly identified candidate for federal office; and
- the amount you spend reaches \$2,000 in the primary or \$2,000 in the general election.

You will be required to report the costs of partisan membership communications if the materials are primarily devoted to the express advocacy of the election or defeat of a clearly identified candidate for federal office. For example, if **more than 50%** of your Association newsletter is devoted to partisan communications, you will need to report the costs.

Federal and state election law can be tricky and there is no such thing as a "dumb" question. Be sure to contact your state Association or NEA for assistance. Also, NEA-PAC's brochure, "Do's and Don'ts of a Federal Political Campaign," contains many good examples of how federal election law applies to Association staff.

### A CHECKLIST SUMMARY

- ☐ Familiarize yourself with local, state and federal regulations affecting campaigning, and with any contractual limitations.
- ☐ Make sure the information you publish is consistent with that being published by your candidate.
- ☐ Make sure the information you distribute through means outside the Association is consistent with what you distribute internally.
- ☐ Strive to reach your members five to seven times (not counting paid media) using a variety of formats and distribution techniques.
- ☐ Choose the format for your printed piece that is appropriate for what you are trying to accomplish: awareness, knowledge, preference, or action.
- ☐ Design your materials to survive the "twelve-second scan."
- ☐ If you use a union printer, ask for the "union bug."
- ☐ Always judge the "cost/effectiveness" of your efforts.
- ☐ Try to make your materials as "warm" and personal as you can.



The NEA Series in Practical Politics is available to assist members with their political education needs.



## TWO-FOLD BROCHURE

(Back Cover)

**Excellence. Together.**

Together, we can help advance the cause of excellence in education in Washington and America.

Together, we can help insure that the women and men who work in our state and national capitols are dedicated to helping us achieve excellence in education.

Together, with an individual contribution of only \$25 a year to WEA's state and national political action arms we can make an important investment for excellence in education.

**CONTRIBUTE NOW.**

WEA-PULSE \$13

NEA-PAC	\$12
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total	\$25
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**Washington Education Association**  
33434 8th Ave. S.  
Federal Way, WA 98003

The National Election Assistance Political Action Committee (NEA-PAC) collects contributions from individuals and uses those contributions to help those parties of opposition to today's office. Contributions to NEA-PAC are voluntary and are not a condition of membership in NEA or any of its offices. (Although NEA-PAC requests an annual contribution of \$12, this is only a suggestion.) A member has complete access to all the amount suggested or less, which is used to fund any contribution and this will not affect his or her membership and/or rights or privileges in NEA or any of its offices. A copy of the NEA-PAC report is sent with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C.

(Front Cover)

**Achieving  
excellence in education  
depends in large measure on  
who the women and men are  
that work in our capitol cities  
of Olympia and the  
District of Columbia.**



Washington Education Association

## It's Simple, Really.



If you want our state and national governments to assume a dynamic role in promoting educational excellence in public schools, there's just one place to look for help.

At ourselves.

Because unless educators actively get involved in the election of responsive public officials, they won't be elected and educational excellence will remain just rhetoric.

And at a time when the entire country is reading one report after another calling for a greater commitment to excellence, we must understand that nothing much will really happen unless public officials are willing to make the necessary policy changes and appropriate the money to get the job done.

It's that simple.

**Excellence Depends on Us.**

You'll recognize some of the proposals instantly.

Tuition tax credits. Vouchers. Competency testing. School prayer. Abolition of the Department of Education. Salary caps. Merit pay.

They're all back for another legislative and congressional session—newly disguised as proposals for "excellence".



But if you care about true excellence in our schools you can make an important investment in that cause.

Just contribute \$25 a year to WEA's state and national political action arms PULSE (\$13) and NEA-PAC (\$12). And most of you can retrieve half of that \$25 when you file your income tax return.

The need is great. The contribution is small. And the opportunity is ours.

(Inside Left)

(Inside Right)



## TABLOID MAILER

(Inside Left)

## NEVER BEFORE HAS PUBLIC EDUCATION FACED SUCH MILITANT OPPOSITION AT THE STATE AND FEDERAL LEVELS.

On Tuesday, November 2nd, voters throughout West Virginia will decide who holds public office in Charleston and Washington. We teachers have a lot riding on these decisions. The outcome will set the direction of public education for years to come.

That's why hundreds of our colleagues have spent endless hours meeting and interviewing the candidates for state and federal offices. Let's face it, every candidate claims to be a friend of education before the elections, but now that we've done our homework, here are the people who will be our friends after the elections.

### FOR STATE

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(Inside Right)

## BOB WISE FOR CONGRESS

Bob is a true friend of education. We need him working in Congress.

State Senator Bob Wise, Democratic candidate for the Third Congressional District, is recognized by teachers, administrators and others as a true friend of public education. Bob's voting record on the state senate scored a perfect 100% by the WVSEA in 1982, not just on the "important issues" but on all issues created by the WVSEA. He will continue to fight for the betterment of public education.

Bob Wise stands steadfastly opposed to President Reagan's tuition tax credit plan, which would create gross inequities in the distribution of federal money for education. A disproportionate amount of tax dollars would go to the areas of the country with many private schools (i.e., the Northeast) while taking money away from public schools in other parts of the country, including West Virginia.

Combined with the New Federalism, the tuition tax credit bill would pump more money into private schools than it would public schools. It would also compound the critical problem of huge federal deficits, because incoming revenue would be cut while spending would be raised.

Bob Wise believes public education is the very foundation of an antitrust progressive democracy. Public education opens its doors to all the poor, the handicapped, the slow starters, the gifted, the religious and non religious. Bob Wise will continue to work with friends of public education, so that children from all walks of life will receive the best education possible.

West Virginia teachers need Bob Wise in Congress. Now he needs our help.



## THE FUTURE OF PUBLIC EDUCATION IN WEST VIRGINIA AND THE NATION MAY DEPEND ON WHAT YOU DO ON NOVEMBER SECOND.

WVSEA  
 1000 Capitol Mall, N.E.  
 Charleston, WV 25301-2837

Non-permitted Child  
 U.S. POSTAGE PAID  
 Permit No. 482  
 Charleston, WV

THE ENEMIES OF PUBLIC EDUCATION  
 HOPE YOU WON'T READ THIS . . .

## Senator Robert Byrd: a powerful voice for education.

West Virginia education is under attack.

Over 100 teachers and parents have signed a petition to elect Senator Robert Byrd to Congress. They are asking you to join them in electing Senator Byrd to Congress.

Senator Byrd has supported cutting back on the federal tax credit for private schools. He has supported cutting back on the federal tax credit for private schools.

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Here's been our friend, now he needs our help.

For those who are not sure, here are the reasons why Senator Byrd is the best choice for West Virginia's Third Congressional District.

Senator Byrd has supported cutting back on the federal tax credit for private schools. He has supported cutting back on the federal tax credit for private schools.

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Senator Byrd: for education, for West Virginia.

(Front Cover)

(Back Cover)

## DIRECT MAIL LETTER

TWA  
710 234 1035  
Box 51 E & B  
Baltimore Maryland 21201  
(301) 727 7876  
Maryland (401) (Toll Free)  
800 456 3560

MARYLAND  
TEACHERS  
ASSOCIATION  
AFL-NEA BRANCH



President  
Vice President  
Secretary  
Treasurer  
Executive Director  
Public Relations  
Legal Counsel

September 2, 1982

Dear Colleague:

Lord Acton once said, "Power corrupts, and absolute power corrupts absolutely."

Unfortunately for teachers throughout Maryland, one man has used that to absolutely corrupt every major piece of teacher legislation in the House of Delegates.

His name is John Hargreaves, and he's elected from Wicomico, Dorchester, Talbot, and Caroline counties.

Let me tell you a little about him. Hargreaves is Chairman of the House Appropriations Committee. For years, he has used that position to kill legislation that would have benefited your school district and your school. And every teacher in the State of Maryland.

So when crucial legislation bottled up in his committee, where it simply dies. Just in this last session, he killed three major pieces of our legislation this way.

For example, we all know how difficult it is to guarantee fair treatment for teachers who have legitimate grievances. We know that the best way to do this is through arbitration. The State Board of Education has agreed to this. But Hargreaves refused to allow his Senate passed this bill, yet Hargreaves refused to allow his committee even to vote on it.

The bill died.

Then there's the "shall to may" bill we were successful in getting passed by the Senate. You may remember that this is the bill that would modify the penalty for teachers who are forced to impose on your services -- as Somerset County had to do last year. But when the bill was sent to the House of Delegates, Hargreaves refused to let his committee even consider the bill.

And it died.

Our dues are higher because we don't have an agency shop provision. Consequently, we have to pay for a private agency shop. A bill we introduced to provide free services to members of the Maryland Teachers Association, the Hargreaves bill, an agency shop if they wish to join the association, was killed by Hargreaves. He refused to let his committee even consider the bill.

And it died.

Governor Hughes condenses legislative tactics like Hargreaves employs. The Governor's office has every bill is entitled to its opportunity to consider and vote on it.

Unfortunately, with your help, this can be the last year Hargreaves is able to kill the legislation which is so important to you and me.

Samuel "Q" Johnson is challenging Hargreaves in the September 14th Democratic primary.

"Q" Johnson is a strong supporter of quality education. As a former teacher, "Q" Johnson knows the importance of good schools.

And that is not all. "Q" Johnson understands the problems of the Eastern Shore. He has lived on the Eastern Shore and his full-time has lived here for four years. He will be a delegate who will truly represent you in the House of Delegates.

I know your time is valuable, so I don't want to take up too much of it. But voting for "Q" Johnson will give you too many important benefits. You'll be representing quality education, you'll be representing quality education, and John Hargreaves will no longer have a struggle hold on every bill that affects your future!

Sincerely,

David A. Piccinini  
President

P.S. You vote for "Q" Johnson in the September 14th primary, then vote for the "shall to may" bill in the November election. We need your help for your future.

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